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The Supreme Court Rules
Michael M. Uhlmann

Scandal and the Constitution *L. Martin Nussbaum*
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Books: *Avery Cardinal Dulles • George McKenna*
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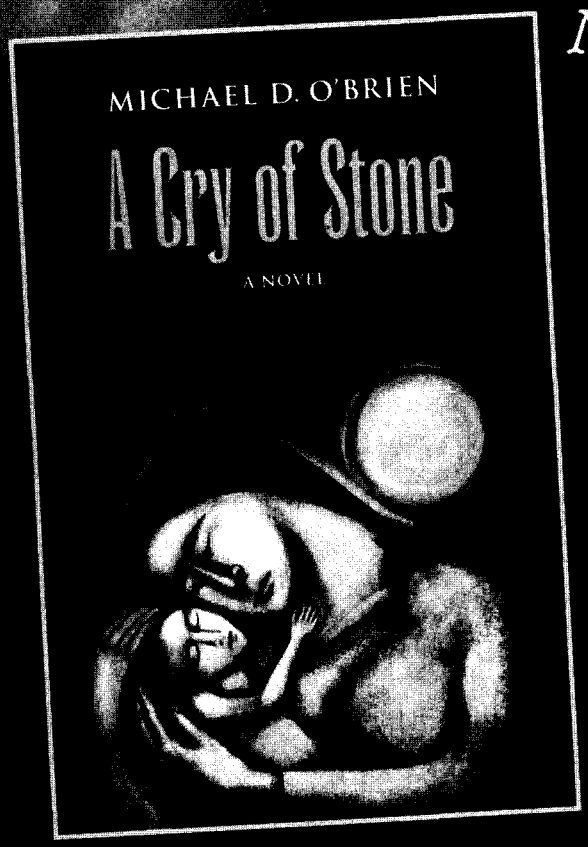

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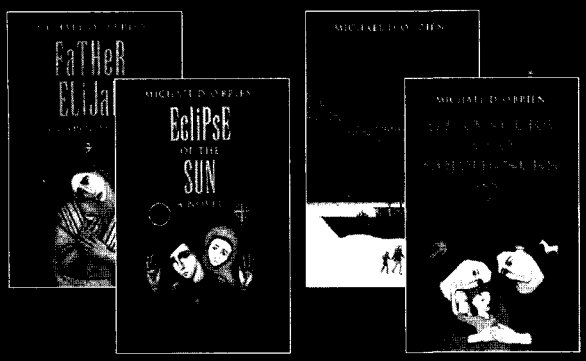

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First Things (ISSN #1047-5141) is published monthly (except for combined issues June/July and August/September) for $34 per year ($14.97 for students) by the Institute on Religion and Public Life, 156 Fifth Avenue, Suite 400, New York, NY 10010. Periodicals postage paid at New York, NY and additional mailing office. POSTMASTER: send address changes to First Things, P.O. Box 401, Mt. Morris, IL 61054. **Editorial Offices:** The Institute on Religion and Public Life, 156 Fifth Avenue, Suite 400, New York, NY 10010. **Editorial Phone:** (212) 627-1985. **Email:** ft@firstthings.com. **Website:** http://www.firstthings.com. **Advertising Offices:** 129 Phelps Avenue, Suite 312, Rockford, IL 61108. **Advertising Phone:** (815) 398-8569. **Email:** firstthingsadsales@pma-inc.net. **Subscription Department:** P.O. Box 401, Mt. Morris, IL 61054. **Subscription Phone:** 1-877-905-9920. **Email:** frth@kable.com. Unsolicited material cannot be returned unless accompanied by sufficient return postage. Newsstand distribution by Eastern News Distributors, Inc., One Media Way, 12406 Rt. 250, Milan, OH 44846. Copyright © 2003 by the Institute on Religion and Public Life. All rights reserved. Produced in the USA.

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FIRST THINGS

FIRST THINGS is published by Religion and Public Life, an interreligious, nonpartisan research and education institute whose purpose is to advance a religiously informed public philosophy for the ordering of society.

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CORRESPONDENCE

Who's in Hell?

Avery Cardinal Dulles' characteristically clear and comprehensive article "The Population of Hell" (May) brings home a concern that many of us share with even saintly people of the past. The question of the salvation of the apparent unbeliever or of the marginal—the publicans and the harlots who Christ says will enter the kingdom of heaven before us—is often a very personal one. Most of us have friends and relatives on or off the spiritual edge. Cardinal Dulles did not refer to one important aspect of this question, perhaps because he takes the approach of the theologian. There is something to be learned from the private revelations of the mystics, whose unusual experiences of the divine have been approved by the Church.

The source of information is, of course, uneven; it is also easily dismissed and therefore often overlooked. In our time one private revelation has received the highest possible ecclesiastical approval with the canonization of St. Faustina Kowalska, a humble Polish nun who left an interesting record of her encounters with Christ as the embodiment of Divine Mercy. She recorded experiencing symbolic conversations of the Merciful Savior with a variety of types: the fervent soul, the suffering soul, and finally the despairing soul. In a remarkable account, which includes an important reference to prevenient grace and which leaves the soul free to accept or reject salvation, St. Faustina describes how an apparently lost soul is called by Christ himself at the hour of death. I included this remarkable passage from St. Faustina's Diary in my book *The Cross at Ground Zero*, and it proved to be an immense consolation to many who lost dear ones on 9/11.

Is it in totally bad taste to suggest that we might consider, partly on the basis of St. Faustina's revelation, that there may be a final divine call to conversion at the hour of death? Could this be the meaning of the promise of salvation given to the good thief on his cross? He did not walk in the straight way or enter by the narrow gate, but we have it on the highest authority that he is not to be counted among the population of hell.

Benedict Groeschel, C.F.R.
Bronx, New York

P. G. Wodehouse wrote of one of his characters that he could, with one look, open an oyster at sixty paces. With his article on hell, Avery Cardinal Dulles aims at showing that, theologically at least, he possesses the same ability. However, a gimlet eye cast over the Church's tradition about hell is today no longer enough. Indeed it is precisely such cold-eyed impartiality when dealing with the concept of everlasting punishment, whether for the majority or the minority, that is for so many offensive and genuinely scandalous. Most people would be appalled, and surely rightly so, if Osama bin Laden or Saddam Hussein on being caught was sentenced to be tortured for the rest of his life. Yet it is everlasting torture of the most extreme type that even such recently canonized saints as St. Faustina Kowalska of the Divine Mercy speak about. As she reports after one of her visions, "Let the sinner know that he will be tortured for all eternity in those senses which caused him to sin." To the so-called orthodox, this is not at all shocking; they can point to various

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Gospel passages that say something very similar. Our contemporaries, however, who revere such people as Nelson Mandela precisely because he forswore violence or punishment against those who imprisoned him for so long, will continue to fail to understand how Catholicism manages through its unquestioning acceptance of the concept of hell in its most primitive form to ensure that its God is made to seem in comparison a moral pygmy.

Anthony Grigor
Newcastle on Tyne
England

The eternal torment speculation reminds one of the Greek myth about Alexander the Great. He wanted a chariot that was secured to a post by a knot, so intricately woven by Gordian that no man would ever be able to untie it and release the chariot. Alexander doesn't try to untie it; he simply strikes it asunder with a stroke of his sword.

If He wills it, God can do anything He deems desirable. He is not only ultimate justice; He is also ultimate love and ultimate mercy. His power is totally unconstrained and, surely, unconstrainable in conformity to human logical reasoning. It is beyond our human capacity to define God's nature in terms of irrevocable divine compulsions to do or refrain from doing anything conceivable relative to the human beings that He has created and loved. If He decides to strike asunder the tethers of damnation for some or all who otherwise are condemned to eternal torment, so will it be.

Edgar A. Jones, Jr.
Pacific Palisades, California

The doctrine of eternal hell is so patently unjust that it leads many to the opposite heresy of universalism. Avery Cardinal Dulles reviews this and other attempts to mitigate the doctrine of hell: perhaps fewer people are lost than theologians suspected, perhaps the damned may at some point be able to escape the pain of hell, perhaps the hell-fire statements of Scripture are only threats intended to warn people. He dismisses what I consider the best alternative, the biblical doctrine of annihilation.

According to Scripture the choice that God offers sinners is not between eternal life in heaven and eternal life in hell, but between life and death. "The wages of sin is death, but the gift of God is eternal life" (Romans 6:23); ". . . whoever believes in him might not perish but have everlasting life" (John 3:16). The prophet Malachi indicates that the fate of the wicked is annihilation. "For behold, the day comes, burning like an oven, when all the arrogant and all evildoers will be stubble; the day that comes shall burn them up, says the LORD of hosts, so that it will leave them neither root nor branch. And you shall tread down the wicked, for they will be ashes under the soles of your feet, on the day when I act, says the LORD of hosts" (Malachi 4:1-3). Jesus said, "Fear him who can destroy both soul and body in hell" (Matthew 10:28). (Cardinal Dulles incorrectly cites the passage as "punish soul and body in hell," but the Greek *apollumi* unequivocally means destroy.)

But there are those troublesome "eternal" statements. What is "eternal fire" (Matthew 25:41)? Jude 7 says that Sodom and Gomorrha suffered "the vengeance of eternal fire." Yet those cities are not still burning today. The fire produced eternal consequences. What is "eternal punishment" (Matthew 25:46)? Death without resurrection is eternal punishment. It is eternal exclusion from life with God. This does not mean hellfire is a light matter. The wicked will suffer torments in the presence of God and the Lamb (Revelation 14:10), feeling God's wrath against sin and knowing that they are eternally excluded from the glories of Paradise. The less guilty will be consumed rapidly; the more guilty will suffer longer. But the fire that cannot be put out will eventually burn out, leaving only ashes. Then God will create a new world without a trace of evil. Sin and sinners will be no more. And everyone will be satisfied that God is compassionate, just, and fair.

Beatrice S. Neall
Professor Emerita of Religion
Union College
Lincoln, Nebraska

I am grateful for Avery Cardinal Dulles' helpful and clarifying essay. I would like to add a further thought: our wrangling over the statement "We may hope that Hell is empty" may be due to obsessing over the end of the sentence and missing the trapdoor at the beginning, the little word "hope."

What does it mean when someone "hopes" that hell is empty? It sometimes sounds as if a sure-and-certain hope is intended, a complacent hope, as in "I hope this fine weather continues tomorrow." That kind of confidence is clearly unsupported in or out of Scripture, and is grossly presumptuous. It is also directly harmful to the impulse for evangelism; fellow Christians have told me that it is no longer necessary to spread the gospel because God will find a way to save everybody anyway.

A more appropriate hope might be akin to "I hope they get that little girl out of the well alive." We feel a fervent, even desperate longing that this hope will prove true. We would do anything within our power to make it so. When we receive the instruction, "Go into all the world and make disciples," we rejoice to know a way to help bring our hope to reality.

One more kind of hope might be the wistful or daydreaming hope expressed in Jacques Maritain's "reverie." Edith Stein's thesis may fit into this same category. In this case we are imagining how our hopes—we might even say "wishes"—could be

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brought about by God. We make no claim to have figured it out definitively, but are indulging in a pleasant stream of possibilities. Similarly, when I was a small child, I used to hope that my parents would give me a pony for Christmas. However, I learned that my hopes did not compel my parents. We are of course free to wish or to hope anything we can imagine, but we shouldn't think our wishes bind God's hands. When we wake from the daydream we find that all He has told us is that we should spread the gospel. Apparently we servants don't need to know any more. Fulfilling that commandment will keep us busy enough until the day we finally learn the truth.

Frederica Mathewes-Green
Baltimore, Maryland

Avery Cardinal Dulles does his usual excellent job in tracing the history of the doctrine of hell in Scripture and tradition. He also demonstrates his usual fairness and balance in explicating the theological opinion of Hans Urs von Balthasar and others to the effect that there is a possibility—which we may have a duty to hope for—that all may be saved.

While acknowledging that the overwhelming preponderance of Scripture and theological tradition (including Augustine and Aquinas) holds that many, if not most, will in fact be lost, Cardinal Dulles investigates the possibility of a legitimate shift in the tradition that might soften this view and make more room for von Balthasar's thesis.

I think it's clear that a careful reading of the documents of Vatican II does evidence such a broadening, but with very important qualifications. The key text, it seems to me, is found in *Lumen Gentium*.

> Those who, through no fault of their own, do not know the gospel of Christ or his Church, but who nevertheless seek God with a sincere heart, and moved by grace, try in their actions to do His will as they know it through the dictates of their conscience—those too may achieve eternal salvation. . . . But very often, deceived by the Evil One, men have become vain in their reasonings, have exchanged the truth of God for a lie and served the world rather than the Creator (cf. Romans 1:21,25). Or else, living and dying in this world without God, they are exposed to ultimate despair. Hence to procure the glory of God and the salvation of all these, the Church, mindful of the Lord's command, "preach the gospel to every creature" (Mark 16:16) takes zealous care to foster the missions. (*LG* 16)

The Council clearly acknowledges that God offers the possibility of salvation to people who have never heard the gospel. But it also makes some very important qualifications.

First of all, it is those who "through no fault of their own" do not know the gospel who have the possibility of salvation. The implication is that people can be at fault for not hearing the gospel.

Secondly, salvation is possible for those who have not heard the gospel through no fault of their own if they indeed "seek God with a sincere heart, and moved by grace, try in their actions to do His will as they know it through the dictates of conscience." This seems to me to be a rather stiff requirement.

Thirdly, the possibility of salvation does not exist in some neutral vacuum. There are opposing forces that seek to impel human beings to reject the light of conscience and prefer the works of darkness to the works of light, to seek self rather than God, and to do what satisfies the lust of the flesh, the lust of the eyes, and the pride of life, rather than the will of God (1 John 2: 15-17). In other words, the world, the flesh, and the devil are formidable obstacles to responding to the light and grace that God gives.

It seems to me that a fair way of describing what has happened in Vatican II is a recovery of the range of scriptural teaching on salvation to allow for salvation outside the visible confines of the Church, of explicit faith and sacramental baptism. A certain Catholic "fundamentalism" or "ecclesiocentrism" has been overcome, and God is allowed to be God. On the other hand, it is a huge mistake, theologically and pastorally, to move from the possibility of salvation apart from Christ and the Church to the probability of such salvation. Even with the necessary broadening of the tradition, the sobering words of Peter remain very apropos: "If the righteous man is scarcely saved, where will the impious and sinner appear?" (1 Peter 4:18)

Ralph Martin
Instructor of Theology
Sacred Heart Major Seminary
Ave Maria College
Ann Arbor, Michigan

Avery Cardinal Dulles responds:
As I expected, the readers of FIRST THINGS have come up with some stimulating reactions to my article. They provide me with a welcome opportunity to clarify certain points. Father Benedict Groeschel, without disagreeing with anything I wrote, adds a consoling pastoral reflection based on private revelation. He would concede, I presume, that private revelations never settle questions of faith, especially since the reported visions of different holy persons sometimes point in different directions. It is interesting that both Fr. Groeschel and Anthony Grigor cite St. Faustina, but do so in support of very different points.

I took it for granted in my article that God may sometimes give special

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graces to dying persons to rescue them from the jaws of perdition. The hypothesis of the "final option" has been extensively discussed in the theological literature since the early 1930s. But even if such an option is offered to every dying person, it does not settle the question of salvation, for, as Fr. Groeschel notes, God's final grace still leaves the recipient free. Hope as we may, we have no assurance that everyone accepts that grace before dying.

Mr. Grigor is correct in pointing out that our contemporaries are offended by the doctrine of eternal punishment. But the difficulty is hardly novel. It was already felt by Origen and others in the early centuries. The eternity of hell was energetically discussed in England in the latter part of the nineteenth century. The Catholic lay theologian St. George Mivart wrote an essay on "The Happiness of Hell," propounding a theory similar to the "reverie" of Maritain mentioned in my article. The damned, he conjectured, might experience "an eternal upward progress, though never attaining to the supernatural state which would no doubt be most unwelcome and repugnant to such souls." The Holy Office condemned Mivart's theory, and he expressed his total and sincere submission in 1893. If the doctrine of eternal punishment really proved anything against the nature of God as a loving Father, Jesus would surely have felt the contradiction. But he did not shrink from uttering "hard sayings" on this point, as on others. While Jesus spoke in metaphors that we cannot translate into literal language, I would not wish to minimize the severity of his warnings.

Edgar Jones is correct in saying that God can do what He wants, provided (I would add) that the actions are compatible with the divine attributes. But God can also reveal, to a greater or less extent, what He intends to do. He has, I take it, revealed that those who die with serious unrepented sin on their conscience will be justly sentenced to eternal punishment. His warnings are surely more than empty threats.

Beatrice Neall argues with some skill that annihilation is a biblical doctrine. But I am not convinced. When Paul says that the wages of sin is death (Romans 6:23), he does not seem to mean annihilation. He often uses the term "death" to signify spiritual death; for example, when he says that his converts before baptism were dead through sin (Ephesians 2:1,5; Colossians 2:13). The Book of Revelation speaks of the "second death," experienced by those who are to be cast into the lake of fire and brimstone (Revelation 21:8). As for Matthew 10:28, I neither misquoted it nor did I quote it at all. I paraphrased it as referring to damnation, which is the way that most exegetes seem to understand the text. Since, as the New Jerome Biblical Commentary says, "the force of the verb 'destroy' is uncertain," some explanation is needed. Does "destroy" here mean "annihilate" or "bring to ruin"? Texts such as Matthew 18:8, 25:41,46; Mark 9:47-48; and Revelation 20:10 clearly rule out annihilation. Even if the matter were left obscure in Scripture (as I do not think it is), the teaching of the Catholic Church (and most other Christian churches) rejects the doctrine of annihilation. Beginning with the Athanasian Creed, a whole series of authoritative documents speak of hell as everlasting punishment.

Frederica Mathewes-Green makes a useful distinction between the different meanings of hope. Whatever hope we may have for the salvation of all is not the same as that which we have for those who believe in the Lord with all their hearts. At the end, she sums up the whole matter very well. "Apparently, we servants don't need to know any more." God does not need to satisfy our curiosity.

I have no substantive disagreement with Ralph Martin. He gives a clear and correct exposition of Vatican II. Let me suggest one friendly amendment. Toward the end of his letter he speaks of "the possibility of salvation apart from Christ and the Church." By this he presumably means "apart from explicit faith in Christ and the Church." I do not suppose him to be denying that God's grace is always distributed through Christ and the Church.

Let me take this occasion to clarify a further point. I reported that Pope John Paul II, according to the English text of one of his General Audience talks, said: "Eternal damnation remains a possibility, but we are not granted, without special divine revelation, the knowledge of whether or which human beings are effectively involved in it." By now I have been able to get my hands on the official (Italian) version of the talk in the *Insegnamenti di Giovanni Paolo II*. It agrees with the English except that the words "whether or" are omitted. Thus the Pope cannot be cited as tending toward universalism. On the contrary, he teaches here as elsewhere that some have in fact said "no" to the divine invitation to everlasting life. I believe this to be the case, though the Church has never taught under pain of heresy that anyone is damned.

Who's a Jew?

When I wrote *The Rebbe, the Messiah, and the Scandal of Orthodox Indifference*, I expected enthusiastic approval along with a torrent of denunciation, and these expectations have been duly confirmed. Nonetheless, I was somewhat surprised by the tone of David Singer's essay "The Rebbe, the Messiah, and the Heresy Hunter" (May), which attributes to me bitterness, rage, barely controlled hysteria, egotism, absurdity, and nonsense, all in the service of my aspiration to emulate Torquemada.

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Regrettably, Mr. Singer misrepresents or virtually ignores key contentions of the book. Thus, the position he labels absurdity and nonsense is one that I never affirmed, namely, my alleged "claim that the Lubavitcher messianists have had a major impact on the larger Jewish community," which he understands as the acceptance of the Rebbe's messiahship by significant numbers of non-Lubavitch Jews. Such a contention would indeed be nonsense. Mr. Singer asserts that I finally acknowledge on the last page of the book that "most Orthodox Jews still adhere" to the traditional messianic faith, when this assertion already appears on p. 2 (referring there to "the vast majority"). My real point, made clearly on those two pages and repeated throughout the book, is not that non-Lubavitch Jews believe that the Rebbe is the messiah, but that the recognition of believers as Orthodox rabbis establishes that belief as a legitimate option within Orthodoxy. It is this recognition that makes the last decade a watershed in the history of the Jewish religion, wiping out a fundamental distinction between Judaism and Christianity.

Not once in his essay does Mr. Singer provide a clear statement of this point, which is the central contention of the entire book. After he has exposed my absurd, nonsensical "stand[ing of] reality on its head" as I conjure up "an all-powerful enemy," he finally turns to my indictment of Orthodox Jewry for indifference and notes my assertion that this indifference has led to a situation in which "the messianic faith of Judaism is dying." But he gives no indication of what I mean by this, continuing to leave the reader with the impression that I imagine that such inaction has led to the spread of this belief throughout the Orthodox community. He goes on to call me as a witness against myself by quoting a paragraph from the book in which I list examples of the delegitimation of Lubavitch messianism by mainstream Jews; he does not, however, acknowledge the overwhelming evidence alluded to in the very next paragraph and throughout the book that these examples do not reflect the dominant reality, which grants Orthodox recognition to Lubavitch messianists all over the world. When he proceeds to note my position that messianists should be removed from positions of religious authority, he presents this as a "witch hunt" without supplying the slightest indication of the argument for it.

Let me elaborate just a bit on that argument. Jews through the ages have declared to Christian polemicists and missionaries that Judaism rejects on principle the position that the messiah will die in the midst of his uncompleted redemptive mission. Rather, they have argued, Judaism has a set of clear criteria that a claimant must meet in order to be identified confidently as the messiah. Anyone who denies these propositions, they have insisted, has rejected Judaism.

Now, however, a Christian can approach David Singer and ask how it is that people who openly proclaim their denial of these same propositions are accepted as synagogue rabbis, members and even heads of rabbinic courts, supervisors of kosher food, and principals of yeshivas both inside and outside Lubavitch. After rereading his article in FIRST THINGS and realizing that not a single word of it is responsive to this question, he would have to reply either that such acceptance is a terrible mistake and needs to be reversed (thereby endorsing my core argument) or that belief in the messiahship of the deceased Rebbe does not in fact contradict a fundamental Jewish tenet (thereby contributing further to the deformation of his religion).

I am not certain whether the messianists' abolition of the parameters of a basic Jewish belief while adhering to the belief itself is technically heresy, but I do know that appointing those who abolish such parameters as Orthodox rabbis betrays Judaism. In this context, I note Mr. Singer's unfortunate assertion that I call the believers "vile heretics." The word "heresy" does not appear in the book until p. 145, where we find the following: "The messianist belief in itself, with its abolition of Judaism's criteria for identifying the messiah, is seen by some as heresy. I have studiously avoided that term, though I do not quarrel with those who use it." I made the same point parenthetically in an article on a different theme; since Mr. Singer quotes a passage from that article, he is doubly aware of his "heresy hunter's" avoidance of the term "heretic" (let alone "vile heretic") to describe the messianists.

Another central point that goes unremarked in the article except for its appearance in one sentence of a footnote reproduced from the book is my contention that no Jewish source whatever allows for the belief that the true messiah will unequivocally proclaim the coming of the redemption in his generation, preside over a messianic movement, and then die in an unredeemed world. This is what Jews have always seen as false messianism pure and simple. The Rebbe, whatever his ambivalence or inconsistencies, unquestionably did all this, and so the issue of a few sources that may countenance the notion of a messiah from the dead is ultimately irrelevant. Mr. Singer would have wanted me to ignore the Lubavitch proof texts entirely, a procedure that would have left me open to the just criticism that I denounce an entire movement without even engaging its arguments.

We turn now to another fundamental issue that Mr. Singer does not address at all. In his second paragraph he notes that some Lubavitch hasidim regard the Rebbe as "a di-

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vine being," and he later approvingly quotes a taxonomy of Lubavitch beliefs from the book that includes this doctrine. But when he reports that I "make four assertions in [the] book," this one, to which I devote three chapters and two appendixes, is not even listed. Since Mr. Singer does not contest the existence of this belief among important figures in the movement, his failure to deal with it at all is puzzling.

I am tempted to say that this is a conscious omission motivated by his realization that he could not address the matter while maintaining the thesis of his article, since he could hardly assert that people who consider the Rebbe an omniscient, omnipotent, and unlimited God-man should be allowed to serve as Orthodox rabbis. My instinct, however, is a more generous one. I believe that such doctrines strike Jews as so alien that even when they read the evidence they cannot quite internalize it, and so they continue to react as if it did not exist. Regrettably, it does, and so even incarnationism threatens to become a belief that does not exclude a Jew from Orthodoxy. Here again—even more dramatically—the theological boundaries between Judaism and Christianity are being erased.

Since I made a point of underscoring the emotional/psychological and intellectual difficulties preventing messianists from abandoning their faith (pp. 25, 123-125, 140), I do not know what to make of Mr. Singer's criticism that I have no sympathy for their plight. He goes on to attribute this alleged lack of sympathy to my "remarkable" conviction, demonstrated by a quotation from an unrelated article describing my own religious struggles as a teenager, that a person can coerce himself into proper religious belief. Has Mr. Singer, who is himself Orthodox, never been beset by any religious doubts, and if he has, was the course of his inner odyssey entirely unaffected by what he knew Orthodox Jews are supposed to believe?

And so we come to my Torquemada-like "witch hunt." All religions, certainly all Orthodoxies, have boundaries. We are faced with a situation in which someone changes a fundamental component of a religion and then demands to be recognized as a religious leader or functionary in that religion. It appears to be Mr. Singer's position that the canons of tolerance require adherents of the religion to accept this demand. Thus, a person can hijack your religion, and if you dare to object, you are Torquemada.

Let me provide a concrete example of the regrettable need to ask questions of Lubavitch hasidim. A Lubavitch principal was hired by a non-Lubavitch day school in a fairly small Jewish community. After approximately two years, when he had solidified his popularity among members of the board, he began to send his son to school with a skullcap emblazoned with the slogan proclaiming the Rebbe's messiahship. The rabbi of the community had to engage in a prolonged and very difficult struggle to arrange the principal's departure, one that he had no guarantee of winning. Does Mr. Singer regard such a principal as an acceptable role model for Orthodox children? Were he a member of the board, would he have denounced the rabbi as Torquemada redivivus?

Finally we reach Mr. Singer's concluding point about the usefulness of false messianism as a symptom and even inspiration of religious vigor. Surprisingly, I wrote one sentence in the book that comes close to endorsing this position, to wit, "I even agree that the messiah campaign has had a salutary effect in enhancing awareness and understanding of the messianic faith" (p. 50). But it should be self-evident that religious vigor manifested in a manner that shatters the fundamental beliefs of a religion cannot convey a right to be seen as a legitimate exemplar of the religion in question.

We confront a fascinating phenomenon of central importance to the internal definition of the Jewish faith and to its historic relationship with Christianity. For countless generations, there was a religion called Judaism in which it was understood that anyone pressured to declare belief in a fully divine messiah who died in the middle of his messianic mission was obligated to die rather than acquiesce. Many did die; some killed themselves and even their children. But today one who makes this very declaration is considered an Orthodox rabbi in perfectly good standing, eligible to preside over a rabbinic court, to teach in a yeshiva receiving support from mainstream Orthodoxy, and to serve as a scribe or ritual slaughterer. When a religion moves from requiring martyrdom rather than declaring *x* to recognizing one who declares *x* as a religious authority, that religion has undergone a fateful transformation.

Several Christian theologians and scholars who have read my book have been struck by the potentially monumental significance of this development. Casual observers instinctively see this as the eccentric doctrine of a small sect, but as they ponder the matter they will, I think, recognize that we are dealing with a striking moment in religious history. Orthodox Jews must struggle, in my view, to render this moment as insignificant as possible. I am hopeful, but I am not sanguine.

David Berger
Broeklundian Professor of History
Brooklyn College
and the Graduate Center
City University of New York

David Singer responds:

David Berger's letter is a sham, meant to cover up his true intentions with regard to the Lubavitcher messianists. Professor Berger, in fact, calls for a jihad against Lubavitch, as

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the following citations from his book make clear:

> The most important principle is that no messianist should be treated as an Orthodox rabbi or functionary in good standing. No such person should be permitted to head or even serve on a rabbinical court. Every Jew must categorically refuse to appear before a court headed by a messianist. . . .
>
> No messianist should serve as a communal or synagogue rabbi. Anyone with the authority to remove such a rabbi is obligated to do so. . . . An organization like the National Council of Young Israel must immediately expel a synagogue that refuses to dismiss a messianist rabbi. . . .
>
> No messianist should be appointed as Jewish studies principal or teacher in an Orthodox yeshiva. . . .
>
> Messianist institutions, no matter how many "good things" they do, must be excluded from the Orthodox community. . . . Orthodox Jews should not attend the functions of such institutions or raise money for them. . . . No one should even dream of sending a child to a Lubavitch-run school or summer camp without receiving . . . a letter [rejecting the Rebbe as messiah] from the director, and an equivalent statement must be elicited from every Lubavitch candidate for a position as rabbi or teacher. . . .
>
> Unless one is to disqualify all Lubavitch ritual slaughterers, the task of a supervisory organization is to ask whether the candidate for a post believes that the Rebbe is the messiah. . . . If the answer is not unequivocally negative, I would not hire him. . . .
>
> One should not purchase any of these items [Torah scrolls, tefillin, mezuzahs] from a Lubavitch scribe whose theology has not been determined. . . .
>
> Finally, Lubavitch witnesses at weddings and especially divorce proceedings require special scrutiny.

All this appears in a chapter of *The Rebbe, the Messiah, and the Scandal of Orthodox Indifference* entitled "What Must Be Done?"

Who's Dead?

We would all do well to heed Dr. Maureen L. Condic's warning in "Life: Defining the Beginning by the End" (May). Especially chilling are Dr. Condic's words: "Once the nature of human beings as organisms has been abandoned as the basis for legal personhood, it is difficult to propose an alternative definition that could not be used to deny humanity to virtually anyone." I share Dr. Condic's concern about the precedent which our society's arbitrary way of defining "the status of prenatal human beings" is setting for "future legislation on human rights." Currently, as Dr. Condic points out, there is an inconsistency between our society's view of "prenatal human worth" and its view of "postnatal human worth." However, as time goes by, that inconsistency may be resolved by making the rest of the system consistent with it. History has taught us more than once that when you cheapen the value of human life at either end of the spectrum, you run the risk of finding yourself on the receiving end of the consequences.

Allen Yount
St. Louis, Missouri

Maureen L. Condic states that the standard of "brain death" as the critical difference between living persons and corpses is "now widely (though not universally) accepted throughout the world." She defines brain death as the result of irreversible damage to the brain, resulting in a complete and permanent failure of brain function, and also states that brain death causes the loss of the body's capacity to function in a coordinated fashion as a whole. She appears to accept that this putative loss of coordinated function is equivalent to actual death of the person.

There are some problems with this, however. The Harvard Ad Hoc Committee's 1986 definition implied that brain death should be regarded as death because it inevitably leads to death and that the person in irreversible coma is, for all practical purposes, if not in reality, dead. Untold semantic confusion followed this oxymoronic notion. Many persons declared brain dead have retained free-water homeostasis vasopressin; some show electrical activity in their electro-encephalograms; some react to surgical incision with a rise in heart beat and blood pressure indicating possible integrated neurological function at the supraspinal level; some have a heart beat, digest food, and may even bring a pregnancy to term. Enough evidence therefore exists to cast doubt on the standard definition of brain death as the irreversible absence of all function of the brain.

Dr. Alan Shewmon asserts that the body is dead when it has lost its function at the level of the organism as a whole, and that integrative unity of bodily life exists if there is at least one emergent (gestalt) property at the level of the body as a whole. This property cannot be localized in any part or parts and derives strictly from the mutual interaction of the parts. Furthermore, a wide variety of studies indicates conclusively that the criteria for brain death vary, are not consistent, and are even increasingly ignored. To cite but one exam-

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ple, guidelines for determining brain death vary widely among European nations. (American physicians assume that irreversible cessation of all functions of the entire brain and brain stem is necessary before death can be declared.) As Dr. Condic says, the moment when a human being comes into existence is indeed known with great precision. It is the moment of conception. The moment when a person dies is not yet known with such precision and moral certainty.

John B. Shea, MD
Toronto, Ontario, Canada

Maureen L. Condic's article is to be commended for defining life in terms of the coordinated unity of parts that work together in the organism as a whole. She opposes the position that death should be defined in terms of loss of the capacity for consciousness (a position dating back to John Locke's distinction between personhood and organism, and which has its roots in Descartes' strict mind-body dualism). Thus, she considers patients in a persistent vegetative state to be alive. Her attempt to understand the beginning of life in terms of its end should also be commended; if life is defined in terms of integrated organic unity, surely the embryo is such a unity.

Unfortunately, Dr. Condic's position is considerably weakened by her support of the position that "the irreversible loss of brain function" (presumably she is referring to so-called "whole brain death") marks the death of the person. She accepts the claim, made earlier by the 1981 President's Commission Report, "Defining Death," that such loss of brain function means that the integrated unified functioning of the organism as a whole has ceased. As she puts it:

> What has been lost at death is not merely the activity of the brain or the heart, but more importantly the ability of the body's parts (organs and cells) to function together as an integrated whole. Failure of a critical organ results in the breakdown of the body's overall coordinated activity, despite the continued normal function (or "life") of other organs.

She points to the fact that when the ventilator is removed, the "cells and organs of the body undergo the same slow death by oxygen deprivation they would have experienced had medical science not intervened." Of course, this is also true in the case of ventilator-dependent *conscious* patients—if their ventilators are removed, their cells and organs will also undergo slow death by oxygen deprivation. Are such ventilator-dependent patients dead? Surely not. Machine dependence is no more relevant for determining when a person is alive than dependence of the embryo on the mother is relevant for determining whether the embryo is alive. Brain-dead patients have functioning circulatory systems, since their hearts circulate oxygenated blood throughout the body. Their respiratory systems continue to function in the sense that the exchange of oxygen and carbon dioxide still occurs in the lungs and other body tissues. Brain-dead pregnant women have lived for weeks before they delivered healthy children. Alan Shewmon, a pediatric neurologist at UCLA, has reported a brain-dead boy who has lived fourteen years. Even if it were true that brain-dead patients would soon die in the usual sense of the loss of circulation and respiration, that would only imply that brain death is a prognosis, a predictor that death will soon occur; it is not a diagnosis that death has already occurred.

Dr. Condic admits that patients in a "persistent vegetative state" (PVS) are alive because their bodies function as integrated wholes. But what is the morally relevant difference between a PVS patient and a brain-dead patient? The PVS patient is dependent, not on a ventilator, but on a feeding tube and basic nursing care, in order to live. Dr. Condic seems to think that spontaneous breathing "counts for life" in the case of PVS patients. Why does not the spontaneous heartbeat of brain-dead patients "count for life"?

Dr. Condic also admits that "the advantage of brain death as a legal and medical definition for the end of life is that the quality of organs for transplant can be maintained by maintaining artificial respiration." This is probably the main reason why those who are pro-life, such as Dr. Condic, are unwilling to give up brain death as the proper criterion for death. If brain-dead individuals are living human persons, removing their unpaired vital organs would constitute unjustified killing. While many who hold a pro-life position, such as Dr. Condic, might consider this prospect too high a price to pay, it is not too high a price to pay for truth, especially if the truth is, quite literally, a matter of life and death.

Michael Potts
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and Religion
Methodist College
Fayetteville, North Carolina

Maureen L. Condic, in her compelling argument for symmetrical criteria for the beginning and the end of human life, reports without comment the current use of the brain-death criterion for the end point of human life. But symmetry with that criterion would require the beginning of brain activity as the beginning of human life. Such symmetry would place the beginning of life later than Dr. Condic would (rightly) wish.

An alternative to brain death, symmetrical with the embryonic organic synthesizing unity that Dr. Condic supports, has been pro-

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posed by Dr. D. Alan Shewmon. A pediatric neurologist, he has studied nearly two hundred brain-dead patients who, with life-support, continued their organic synthesizing unity for significant periods of time. Some were pregnant women who gestated their babies for enough months to allow safe deliveries. His "champion" is one TK, a boy of four who, with MRIs showing his brain to be liquefied, improved enough to be taken off life-support and sent home with just a ventilator and feeding tube. At last report, he had continued for seventeen years to absorb nutrition and give off waste, had fought off infections and healed wounds, had matured sexually and grown to full adult stature. What might this twenty-one-year-old organically synthesizing unit be if not a Homo sapiens, with the same right to life as you and I?

Shewmon was for many years an advocate of the brain-death criterion, which came into favor with the increasing success of organ transplants. But he is now convinced that the brain does not so much *cause* the organic synthesizing unity of a human body as it *monitors* such unity when it is already present. (Spiritual soul as substantial form, anyone?) The body's organic synthesizing unity can persist for some time after the brain's unity ceases, provided that the circulation of oxygenated blood continues. Such unity is surely evidence of the presence of a person with a right to continuing life. Shewmon now advocates as the go-ahead signal for harvesting transplantable organs a twenty-minute cessation of the circulation of oxygenated blood. After such lack of oxygen, organs almost invariably begin to decompose and are unfit for transplants.

Organ transplants, with the necessity for a criterion of the death of donors, have drawn Vatican attention since the time of Pope Pius XII. John Paul II has called four conferences to study the question. His most recent statement, in August of 2000, is that the brain-death criterion seems to accord with an adequate anthropology, and can be used with moral certitude for harvesting the vital organs of human donors. But that conclusion is a far cry from an infallible pronouncement.

Moral certitude is not absolute certitude. It only allows us to act in good conscience in certain moral matters, where reasonable efforts to learn the truth are the best we can do. But Shewmon's confirmation in the brain dead of the same synthesizing unity that Dr. Condic sees in human embryos is, to this writer, a morally certain caution against harvesting vital organs on the mere ground of the brain death of their donors. On the principle of symmetry, doing so is very likely the moral equivalent of harvesting stem cells from human embryos.

Mary F. Rousseau
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Marquette University
Milwaukee, Wisconsin

Maureen L. Condic responds:

Allen Yount concurs that abandoning the nature of human beings as a defining standard of life is indeed a chilling possibility, and I appreciate his words of support.

While not objecting to the arguments put forth in my article regarding the importance of integrated organismal function, John B. Shea maintains that "the moment when a person dies is not yet known with . . . precision and moral certainty." Dr. Shea correctly notes that the criteria for brain death are neither universally defined nor rigorously implemented, contentions he supports with reference to studies on the subject. The problems in definition (and application) noted by Dr. Shea point to a continued need for international discussion, for greater clarity regarding appropriate diagnostic criteria, and for better oversight to ensure that an appropriate diagnosis is consistently applied.

However, the fact that some definitions of brain death are problematic, resulting in inconsistent or inappropriate diagnoses of death (a point also made by Michael Potts and Mary F. Rousseau), does not mean that all definitions of brain death are similarly plagued by ambiguity and moral uncertainty. The "standard definition" of American physicians, as given by Dr. Shea—that brain death entails "irreversible cessation of all functions of the entire brain and brain stem"—is fully consistent with brain death resulting in a loss of organismal function, and this definition, if consistently applied, appears sufficiently unambiguous to address many of the concerns raised by Dr. Shea and other correspondents.

Mr. Potts makes the important point that "machine dependence" does not determine whether an individual is alive, citing the example of patients in persistent vegetative states being dependent on a feeding tube for survival. I would note that we are all "dependent" on external factors for life (air, water, nourishment) and such dependence in no way alters my argument concerning the nature of death. Patients in a persistent vegetative state continue to function as an integrated whole, with no greater dependence on nourishment than any other member of the human species: only the nutritional "delivery system" has been altered. Dependence on a feeding tube (or on spoon-feeding) has no bearing on the ability of an individual to function as an integrated biologic organism.

The question raised by Mr. Potts regarding the status of ventilator-dependent patients (i.e., patients who have lost organismal function, yet are sustained artificially) is one of considerable interest. I agree with Mr. Potts that the functions of failed organs can be replaced by a wide range of medical interventions (from venti-

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lators to insulin injections) without the continued life of the patient being called into question. From ancient times, the functions of lost or damaged organs have been replaced by artificial means (consider dentures and wooden legs, for example); in recent years we have merely expanded the range of bodily functions that medical science can competently replicate.

It seems to me, however, that there is a meaningful distinction between bodily functions that can be artificially replaced and those that cannot. Kidney function can be taken over in patients with kidney failure by a dialysis machine, and the patient will continue to function as an integrated human organism, albeit with an artificial replacement part. In contrast, lost brain function cannot be replaced by medical devices or chemical interventions. The primary function of the brain is to coordinate and control the activities of the body, with such self-directed coordination of parts for the sake of the whole being the definition of organismal life. Artificial support of brain-dead patients prevents the cellular death of bodily tissues, yet fails to restore lost brain function and therefore fails to restore organismal function. While brain function does not "define" life, organismal function cannot be maintained in the absence of brain function (just as it cannot be maintained in the absence of cardiac function) and brain function (unlike that of many other organs) cannot be replaced by medical devices. In this light, brain function is an essential component of organismal life for mature humans, while other vital organs (lungs, heart, kidneys, etc.) perform tasks that can be artificially accomplished without critically compromising the overall organismal function of patients.

Were medical science to some day generate an "artificial brain," would it be possible to maintain integrated function (and therefore life) in brain-dead patients as readily as we now maintain life in patients with severe heart damage using artificial hearts? I am inclined to say that should such a device exist and function as advertised, yes—medical science could maintain life even in brain-dead patients. Interestingly, there are compelling scientific and philosophical reasons to believe that medical science will never be able to build an artificial brain, although such arguments are well beyond the scope of the current exchange.

Mr. Potts' rejection of organismal function as the definition of human life while simultaneously upholding the value of human life has some rather bizarre implications. For example, if we are obligated to sustain all human life, regardless of organismal function, how can death ever be morally permitted? Must every corpse be maintained by life support, even those of patients who have died at an advanced age of natural causes? After all, even aged hearts that have stopped beating can be artificially restarted or their function taken over by machines. If the patient has suffered irreversible kidney damage in the interim, must kidney function be artificially taken over as well? So long as necrosis doesn't set in, such "patients" could be kept "alive" for a very long time, if not indefinitely—a curious prospect at best. In cases where it proves impossible to maintain the entire body through artificial means, are we obligated to remove cells from the body and sustain them in tissue culture forever, out of respect for "human life" that has ceased to function as a human organism? Mr. Potts asserts that "the spontaneous heartbeat of 'brain-dead' patients [should] count for life." By that argument, shouldn't the spontaneous beating of an isolated human heart cell in tissue culture also "count for life"? These problematic scenarios make clear the need for a consistent and rational definition of when living "human parts" cease to constitute a living "human person." Organismal function provides just such a rational definition.

As a relatively small matter, I would like to point out that Mr. Potts' peculiar insistence (twice in the span of a mere three sentences) that my assumed "pro-life" position combined with my assumed "support" for organ transplantation somehow taints my reasoning is entirely unfounded. I have based my argument on logic, biological fact, and legal precedent, with my own personal opinion (an opinion that I am quite certain I have never confided to Mr. Potts) being irrelevant either to the facts or to the logical implications of those facts.

Professor Rousseau's assertion that symmetry from irreversible loss of brain function as the definition of death would "require the beginning of brain activity as the beginning of human life" appears to miss the distinction between loss of brain function and loss of organismal function. As I stated in my article, patients in persistent vegetative state who suffer from severe loss of brain function are nonetheless still alive due to the continued organismal function of the body. In contrast, patients who have organismal function critically compromised by any of a number of means are medically and legally dead. Thus organismal function, not brain function, is the defining characteristic of life, and life begins not when the brain begins to function but rather when human embryos begin to function as organisms. Organismal function is unambiguously evident in human embryos from the one-cell stage onward.

On Covering Kevorkian

I suppose it will look ungrateful for me to complain about Wesley J. Smith's mainly favorable review of my *A Merciful End: The Euthanasia Movement in Modern America*

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(May), but I can't help feel that he would have liked the book even more if he had read it a bit more closely.

Mr. Smith's only fundamental criticism was that I scanted the more recent history of the euthanasia debate in America, and in particular "the Kevorkian debacle." But the book actually begins with Kevorkian's murder of Thomas Youk, broadcast in 1998 on CBS' *60 Minutes* news show. Not only is there an illustration of Kevorkian (one of eight in the book), but I also cite Kevorkian's horrific views on medical experimentation, the fact that some of his victims were not terminally ill, the large percentage of women among his victims, and the way his indefensible actions have had a disastrous impact on the reputation of the euthanasia movement since he appeared on the scene in 1990. A glance at the index will prove that Kevorkian received considerably more than "short shrift" in my book.

As for my coverage of events in the 1990s, here too I'm left scratching my head. In fact, I argue that the euthanasia movement, despite recording some of its most impressive victories ever during the decade, has reached a standstill at the beginning of the twenty-first century. Its ritualistic "appeal to autonomy" and personal self-fulfillment through the legalization of a right to die no longer attracts significant numbers of new adherents to the cause, as more and more Americans reach the conclusion that a handful of heart-rending individual cases do not justify changing the nation's laws governing death and dying. Quite simply, my book contends that most Americans now believe that legalizing either assisted suicide or actual mercy killing would be bad public policy. This explains the seemingly "unfortunate" title (*A Merciful End*): the history I chronicle suggests strongly that the movement itself has reached its own "merciful end."

Ian Dowbiggin
Department of History
University of Prince Edward Island
Canada

America and Israel

It seems to me that Richard John Neuhaus has no call to drag Pat Buchanan into the Public Square ("The Sounds of Religion in a Time of War," May) on the now-tiresome insinuation of anti-Semitism. This based on three lines Father Neuhaus cites (without full context) from a March 24 piece in Buchanan's *American Conservative* charging relentless pressure by a smallish group of neoconservaties to take command of our national foreign policy and to reconfigure the map of the Middle East along lines conjunctive with Ariel Sharon's Likud in Israel. Iraq now, then Syria, then Iran (as Sharon has publicly called for), Saudi Arabia, who next?

Would Fr. Neuhaus prefer to hear it from the Jewish columnist Eric Alterman, who asks in the *Nation* (April 21, 2003): "Whose interests come first, America's or Israel's? . . . Likudniks think it is best for both Israel and the U.S. to beat the crap out of as many Arabs as possible as force is the only thing these people understand." And Fr. Neuhaus knows there is an increasing chorus of voices on the same theme. Had he sought to be fair he would have cited the preface to Buchanan's article: "Necons say we attack them because they are Jewish. We do not. We attack them because their warmongering threatens our country even as it finds a reliable echo in Ariel Sharon."

One thing more, please. I have been a reader of FIRST THINGS since its very inception. During those years I do not recall one article, not one page, not one paragraph devoted to the tragedy of a displaced Palestinian people under a brutal Israeli occupation—banished from their homeland with only the clothes on their backs in 1948, denied a return to their homes and villages (the timeless names of their villages now altered to fit the new regime)—even as an Israeli Law of Return redeemable for Jews the world over takes over forever the confiscated lands. For years the Palestinians as refugees have lived under an ad hoc civil law administered by a hostile people—tragically shorn of America's eternal promise of freedom and self-determination, of civil liberties under constitutional law—even as American tax dollars fund the oppression.

Jack Angell
Evanston, Illinois

RJN replies:
These pages have frequently noted that one need not affirm the justice of the way in which the state of Israel was established in 1948 or of Israeli policies since then in order to support Israel's right to live in peace and security. The tragedy of the Palestinians, including their "refugee" status, is chiefly attributable to a corrupt leadership that has exploited them as pawns in the service of Arab states set upon the destruction of the Jewish state. President Bush's ambitious plan for democratizing a Middle East in which Palestinian and Israeli states will live together in peace may be too ambitious, but I believe it has a claim upon our prayerful support.

Gruntled Traditionalists

I greatly enjoyed Richard John Neuhaus' balanced discussion of Vatican II and its sequel ("The Catholic Center," Public Square, April). However, I found no place for myself and a good many others in his description of the "center" and of "right and left discontinuants."

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There are many of us who accept Vatican II as a legitimate Council which set in motion good things, such as fruitful efforts to reconcile with the Jews; but we also drive many miles on Sunday to attend an Indult Tridentine Mass. Perhaps you could call us "gruntled traditionalists"—even the many young people among us.

Father Neuhaus is correct in stating that Vatican II cannot be blamed for everything that happened afterwards. Perhaps the decline in vocations and other woes would have happened anyway. Maybe it would have been even worse if the Council had not taken place. Nonetheless, if the purpose of the Council was to revitalize the Church, then so far, at least, it has largely failed.

I want the old Mass primarily because I find it uniquely beautiful and sacred. I have seen that the new Mass can also be beautiful but often it is not, and in part I flee to the old rite in order to escape the innovative banalities of too many Novus Ordo Masses. Fr. Neuhaus maintains that "the silly season is almost over." But it's not over yet; not everywhere. Let us pray. But please, let me pray in the Latin liturgy which for so long united the entire Church, and which the Pope has endorsed in *Ecclesia Dei*. This is not "discontinuity," but a wish to carry on the faith handed down for two thousand years and expressed in many forms, including the old and (sometimes) the new Mass, and in Vatican II.

James F. O'Callaghan
Maple Valley, Washington

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The Marriage Amendment

The Editors

Marriage in the United States shall consist only of the union of a man and a woman. Neither this Constitution or the constitution of any state, nor state or federal law, shall be construed to require that marital status or the legal incidents thereof be conferred on unmarried couples or groups.

That is the proposed amendment to the Constitution that is now gathering powerful support in the Congress and in several states. Prudent citizens are reluctant to amend the Constitution unless persuaded that it is necessary. What would become the twenty-eighth amendment is necessary because the courts are moving toward a de facto amendment of the Constitution that mandates the radical redefinition of marriage and family. The question before us is how the Constitution will be amended: by judicial fiat or by "We the People of the United States" employing the means established by the Constitution. Entailed in that question is whether change will serve to advance a social revolution unsought and unwanted by the American people or will serve to secure an institution essential to the well-being of our society. The Constitution will be amended, either by constitutional means or by activist judges practicing what is aptly described as the judicial usurpation of politics.

The proposed marriage amendment has been carefully crafted by leading constitutional scholars. The first sentence means that no legislature or court may confer the name of marriage on same-sex unions or recognize a same-sex marriage contracted in another country, such as Canada or the Netherlands. The second sentence is aimed more specifically at activist courts, both state and federal, preventing them from imposing same-sex marriage or its equivalent. The question of adopting arrangements other than marriage, such as civil unions, is left to the determination of the people through the democratic process in the several states. Where the people have had the opportunity to decide the question of same-sex marriage—in Hawaii and Alaska, for instance—they have decided against it, and have done so decisively.

A proper devotion to the principles of federalism has led some to question the amendment because, they say, it would "nationalize" marriage law. The nationalizing of marriage law, however, is precisely what the activists pressing for same-sex unions are on the edge of achieving. They hope that in the next few years same-sex marriage will be decreed by the Supreme Court. In addition, same-sex couples will travel to any state that allows them to marry or enter civil unions, and will then demand that their home states give "full faith and credit" to the judgment that recognizes their status. The great majority of same-sex couples contracting civil unions in Vermont, for instance, do not live in Vermont. They will be suing for recognition of their status in the courts of their home states. An additional and declared strategy is to attack the constitutionality of the Federal Defense of Marriage Act, overwhelmingly adopted by Congress in 1996. One way or another, federalism is compromised. The marriage amendment will establish a general rule against same-sex marriage while leaving the matter of contractual unions and other nonmarital arrangements to the states.

We have been brought to the present circumstance by the astonishing success of the homosexual movement over the past three decades. Traditionally, sodomy was viewed as an act, and was condemned as unnatural and deviant. A hundred years ago, homosexuality was viewed as a condition afflicting people who

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are prone to engaging in such unnatural and deviant acts. Today "gay" signifies not so much an act or condition as the identity of people who say that they most essentially *are* what they do and want to do sexually. The rhetorical and conceptual movement has been from act to condition to identity, bringing us to the demand for same-sex marriage. About two percent of the combined teenage and adult male population, and considerably less of the female, are said to be a minority deprived of their rights. In particular, they claim to be discriminated against in that they are "excluded" from the institution of marriage. They are not asking for tolerance of their private sexual practices and of the gay subculture constituted by such practices. They are demanding, rather, public acceptance and approval. That is the whole point of focusing on the status of marriage, which is a quintessentially public institution.

It is by no means evident that most, or even many, gays are interested in entering into a legally recognized union. Until recently, more radical activists and proponents of "queer theory" vigorously opposed the movement for same-sex unions, arguing that gays should not surrender their erotic freedom to the constraints associated with the "bourgeois" institution of marriage. More recently, the radicals have lined up in support of same-sex marriage, joining the proponents of polygamy and "polyamory" who are now so influential, if not dominant, in the academic field of marriage and family law. We do not have to speculate about their aims. They have by now produced a large literature in support of what they themselves describe as a social revolution that would replace traditional marriage and family with a wide array of "family" arrangements constructed on the basis of expressive individualism and the maximizing of erotic options. A quarter century ago, President Jimmy Carter convened the White House Conference on the Family. Under pressure from such radical ideologues, the name was changed to the White House Conference on Families, in the plural. The hour of the ideologues has now arrived, and they have rallied to the battle for same-sex marriage.

There are a few gays who express admiration for traditional marriage and say they simply want to be included in its benefits. They claim they are now excluded. And they are right. They are not excluded by others; they are excluded by their identity as gays. To be homosexual is a condition; to be gay is a decision. Some say no other decision is available to them, but that is not true. Sexual temptations, like other temptations, can be resisted. In many cases, sexual orientation can be changed. Human frailties notwithstanding, chastity is a possibility for all. Yet we are faced with a not-insignificant number of people who say that gay is who they are, whether by choice or by fate, and that they are unfairly excluded from the companionship, stability, and other goods of marriage. Were the Supreme Court to do their bidding tomorrow, however, they would still be excluded from marriage. Throughout history and in all major cultures, marriage is a union between a man and a woman. That is what marriage *is*. A man and a man or a woman and a woman may have an intense but chaste friendship, including shared living arrangements. It is not the business of the state to certify or regulate friendships. As for those who choose a sexual relationship, we may well understand their yearning for public approval of their choice. But same-sex marriage is not marriage. It is at most a simulacrum of marriage, a poignant attempt to create a semblance of some features of marriage, a pretending to be something like the relationship between husband and wife that is marriage. The reality is not changed if the state collaborates in the pretense and calls it marriage.

To which some respond that it is a harmless pretense. If a very small minority so desperately want to be legally designated as married, even though everybody knows that their relationship is not really a marriage, why not let them? It seems the generous thing to do. It is further argued that such state-sanctioned unions would reduce the typically wild promiscuity that is characteristic of the gay lifestyle. Nobody can know whether same-sex marriage would, in fact, help domesticate the gay subculture. We do know, however, that it would radically change the customs, laws, and moral expectations embedded in millennia of human experience. Marriage and family law reflects the historically cumulative complexities of necessarily public concerns about property, inheritance, legal liability, and the legitimacy of children—the latter entailing a host of responsibilities for which parents, and especially men, can be held accountable. One of the most fundamental prerequisites of social order, it has been almost universally recognized, is the containment of the otherwise unbridled sexual activity of the human male, and marriage is—among the many other things that marriage is—the primary instrument of that necessary discipline.

Marriage and family law is, above all, about children. Same-sex couples cannot from their sexual acts procreate children. Gay activists contend that that only makes their circumstance identical with that of a marriage in which the woman is beyond the child-bearing years. But that, too, is not true. A marriage between an older man and woman does not contradict the definition of marriage as a union between a man and a woman. In addition, such a marriage aims at preventing the man from having children by other women, which is, obviously, not a consideration in same-sex relations. The activists

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respond that gays can adopt children, which is legal in some jurisdictions. Here again the concern for children becomes paramount. After decades of experiments with single-parent families, "open marriages," and easy divorce, the evidence is in and there is today near-unanimous agreement on what should always have been obvious: judged by every index of well-being, there is no more important factor in the lives of children than having a mother and father in the home. Lesbians and gays in same-sex unions cannot be mothers and fathers, except in the poignant simulacrum of pretended sex roles. Given the ambiguities, uncertainties, and curiosities of children in coming to understand their sexuality, the Vatican's Congregation for the Doctrine of the Faith is surely right when it says in its recent statement that denying the child the experience of having a mother and father is a cruel deprivation.

Many oppose same-sex unions and the consequent revolution in marriage and family law because they believe homosexuality is a disorder and homosexual acts are morally wrong. That is not a private prejudice. It is not, as the Supreme Court has claimed, an "irrational animus." It is a considered and very public moral judgment grounded in clear reason and historical experience, and supported by the authority of the biblical tradition. Nobody should apologize for publicly advocating a position informed by the foundational moral truths of Western Civilization. Of course, those who do so will be accused of "homophobia." Homophobia is a term of recent coinage intended to serve as a conversation stopper. Its power to intimidate is rapidly diminishing. Support for the civilizational tradition in this regard is not a phobia; it is not an irrational fear. Concern about the legal establishment and normalization of sexual deviance is fully warranted. What is called homophobia is more accurately understood as a positive judgment regarding the common good and, most particularly, the well-being of children. It should not be, but it still is, necessary to add that hatred of gays or denial of their human or civil rights is evil and must be unequivocally condemned. Moreover, it must be candidly acknowledged that gay demands and agitations today are not unrelated to patterns of sexual hedonism in the general culture.

The debate is now underway as to whether civil rights include the right of gays to have their relationships legally designated as marriage. There are many factors in the debate not addressed here. It is claimed, for instance, that a gay right to marriage is on a moral and legal continuum with extending rights to blacks and women. That convenient but simplistic comparison does not bear close examination. Discrimination against blacks and women was recognized, albeit too slowly, as contradicting the foundational values and institutions of our society. Those values were vindicated and those institutions strengthened by including people who had been unjustly excluded. The just demand of blacks and women was for full participation in the opportunities and responsibilities of the social order. The demand for gay marriage, by way of sharpest contrast, is premised upon the recognition that gays cannot participate in that order's most basic institution, and it is therefore aimed not at their inclusion but at the institution's deconstruction by redefinition. The humpty-dumpty logic is that, if you cannot do something you want to do, you redefine that something, turning it into something you can do. When such word games are translated into law, the public meaning of the something that most people can and want to do is radically changed. The public meaning of marriage and family—in law, and more gradually, in social customs and expectations—is changed for everybody. Gay activists can try but we do not think they will succeed in persuading most Americans that their marriages and families are the same thing that gays can and want to do.

One factor that has been neglected to date is that, according to the reasoning of the recent *Lawrence* decision of the Supreme Court, homosexuality will be viewed as a suspect category that, as in the case of race, will trigger a vast array of laws and regulations associated with the antidiscrimination regime. With respect to affirmative action, quota systems, rules about "hate speech," and much else, attitudes and actions relating to gays will be subject to, in the language of the courts, "strict scrutiny." Minimally, this will mean that homosexuality and heterosexuality, marriage and the gay semblance of marriage, will in the public schools be presented on the basis of scrupulous equality. Since almost no parents want their children to be homosexual or gay, this prospect is likely to generate powerful resistance.

Without the marriage amendment, the debate that is now underway may well be short-circuited by the courts. One way or another, the Constitution will be amended. If it is amended by the judiciary, as the Supreme Court did in its 1973 invention of an unlimited abortion license, we will almost certainly enter upon a severe intensification of what is rightfully called the culture war. Lincoln forcefully stated in his first inaugural address that the American people are not prepared to surrender their right to self-government to even the most eminent tribunal. Whether that is still true of the American people is once again being put to the test.

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Just government is derived from the consent of the governed, says the Declaration of Independence. In this democracy, consent means popular deliberation, debate, and decision through the representative polity established by the Constitution. In the *Lawrence* decision, Justice Anthony Kennedy, writing for the majority, invoked what Justice Antonin Scalia calls the "sweet mystery of life" passage from the 1992 *Casey* decision that affirmed the infamous *Roe* ruling on abortion: "At the heart of liberty is the right to define one's own concept of meaning, of the universe, and of the mystery of human life." In that way of thinking, the dominant, if not exclusive, purpose of the Constitution in dealing with rights is to serve the autonomous self as construed by the foundationless philosophy of expressive individualism. The moral, social, political, and legal order must bend to the individual definition of truth, no matter how willful or arbitrary. In support of that logic, the *Lawrence* opinion cites the authority of the above-mentioned ideologues and even of like-minded jurists in the European Union.

It appears that the Supreme Court has quite forgotten the purpose and source of authority set forth by the Constitution. That purpose and source of authority is clearly stated in the Preamble: "We the people of the United States, in order to form a more perfect union, establish justice, insure domestic tranquility, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this Constitution for the United States of America."

We are now engaged in a great debate about whether same-sex marriage and the criminalizing of opposition to homosexuality and the gay agenda will serve to establish justice, ensure domestic tranquility, and promote the general welfare. (Provision for the common defense is, of course, relevant to the inclusion of gays in the military, which the logic of *Lawrence* would make mandatory.) Of crucial importance is the securing of liberty understood as what the Founders called the "ordered liberty" of a blessing bestowed, as distinct from the unbridled license of expressive individualism and the quest for the satisfaction of insatiable desire.

The marriage amendment might finally fail, but its passage by Congress and submission to the states for ratification can ensure that "We the People" will not be excluded from the deliberation and decisions that will determine the future of marriage and family, the most necessary of institutions in the right ordering of this or any society. FT

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Opinion

Scandal and the Constitution

L. Martin Nussbaum

Let us stipulate from the beginning, as we lawyers say, that the Catholic scandal is fueled by a small minority of priests who, mostly from the mid-1960s through the early 1990s, egregiously violated their ordination promises; by the bishops who reappointed known perpetrators; and by partisans of the left and the right now seeking to advance their pre-existing agendas for Church reform. As a result of certain bishops' failure to govern their dioceses responsibly, some state officials have stepped in to do so, and not without some cause. Yet this move by the state has grave implications for people of all faiths because it undercuts the long-established constitutional principle of Church Autonomy.

The constitutional principle known as the Doctrine of Church Autonomy is derived from the religion clauses of the First Amendment and articulated in over a thousand published precedents, including six United States Supreme Court opinions, which invoke and follow the 1871 Supreme Court decision *Watson v. Jones*. These cases comprise a body of law in which the religion clauses structurally restrain government power over certain subjects—like the church-minister relationship, religious doctrine, and church communications—which are reserved to the church. The Constitution restrains government power when it insists that there are certain things government cannot do. Most citizens readily understand that the Supreme Court cannot impose a tax and that the Governor of Iowa cannot raise and support an army because the Constitution insists that such are the exclusive powers of Congress. The Constitution prevents the Supreme Court and Iowa's Governor from engaging in such activities even when Congress unwisely exercises its taxing or army-raising powers.

The precedents following *Watson* teach that the religion clauses, and especially the establishment clause, structurally restrain government power over certain ecclesiastical matters in a similar fashion. *Watson* arose from a post-Civil War dispute in the Walnut Street Presbyterian Church in Louisville, Kentucky, which had split the congregation over the issue of slavery. One faction followed the then-traditional Presbyterian Church teaching accepting slavery. The other, supported by the Presbyterian hierarchy, rejected slavery. Each faction wanted the church property for itself.

The Supreme Court resolved the case by rejecting England's Lord Eldon's Rule which would have given the church property to the faction following traditional church doctrine. It instead adopted a rule that required civil courts to defer to hierarchical church authority as identified in the church's polity. *Watson* held that "whenever the questions of discipline, or of faith, or ecclesiastical rule, custom, or law have been decided by [the church hierarchy, the civil] legal tribunals must accept such decisions as final and as binding on them."

The *Watson* Court knew that its holding had "intrinsic importance and far-reaching consequences." It also understood that it had pronounced a rule restraining the power of government and, therefore, a doctrine limiting a civil court's jurisdiction. "No jurisdiction has been conferred on the [civil] tribunal to try the particular case before it. . . . The structure of our government has, for the preservation of civil liberty, rescued the temporal institutions from religious interference [and] it has secured religious liberty from the invasion of the civil authority."

Watson's Doctrine of Church Autonomy thereby ensures that when church and state are operating within their respective spheres, neither is subjugated to the other. It recognizes six subject matters in which churches, whether they are wise or foolish, determine their own affairs and are not subject to intervention by the government. These include: 1) church splits and the resulting disputes over church property and ministry assignments, 2) disputes between ministers and churches, 3) disputes concerning the discipline of church members, 4) claims arising from or related to church communications, 5) claims against clergy for malpractice or breach of fiduciary duty, and 6) claims against churches or church officials for negligent hiring, assignment, and supervision of ministers.

In the church-split cases, the United States Supreme Court has recognized that it must defer to the church's own hierarchy even when the hierarchy teaches a gospel of slavery or when Communist governments co-opt the patriarchates of Orthodox churches. In church-minister disputes, over two hundred appellate courts have declined jurisdiction even when the defendant churches had breached ministers' contracts, violated their civil rights, and injured them through tortious conduct. Neither may civil courts hear claims of church members alleging that their churches injured them by defamation, invasion of privacy, or intentional infliction of emotional distress in the course of church disciplinary processes.

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The clergy malpractice cases are an important example of the application of the Doctrine of Church Autonomy. These cases typically arise when a parishioner is injured by a pastoral counseling relationship, as, for example, when a pastor does not refer a suicidal young man to a therapist and the parishioner then kills himself, or when a minister takes sexual advantage of a woman seeking help with her failed marriage. Every court to consider such claims has rejected them because the First Amendment does not permit the government to define the duties of a "reasonably prudent" pastor as is required in professional malpractice cases. Nineteen states have rejected clergy malpractice claims. None have upheld them.

Church Autonomy law recognizes that civil courts also have no jurisdiction over church communications regardless of whether they take the form of preaching, creeds, tracts, congregational meetings, defamatory statements regarding ministers or members, penitential communications, pastoral counseling, statements before or by ecclesiastical tribunals, and church personnel files. The Fifth Circuit, for example, dismissed a suit in which the Equal Employment Opportunity Commision simply sought to force the Southwestern Baptist Theological Seminary to disclose demographic information about its faculty.

Courts in twelve states recognize that the First Amendment bars civil courts from determining standards for "reasonably prudent" bishops, district superintendents, or others with authority over clergy and ministers. These courts recognize that they may not hear claims arising from the discipline, oversight, or appointment of a minister, including the claim that a denomination or diocese negligently hired, assigned, and supervised a minister. The 1995 Wisconsin Supreme Court, for instance, reasoned that the First Amendment prevents the courts "from determining what makes one competent to serve as a Catholic priest since such a determination would require interpretation of church canons and internal church policies and practices."

Even though the Catholic scandal has placed the greatest pressure on whether Church Autonomy law precludes judicial oversight over how a church oversees, supervises, and disciplines its clergy, Washington and Massachusetts appellate courts reaffirmed the viability of the autonomy doctrine even after the unprecedented adverse press coverage of 2002. In August 2002, the Massachusetts Supreme Judicial Court held, in *Hiles v. Episcopal Diocese of Massachusetts*, that the First Amendment deprived the civil courts of jurisdiction "to probe into a religious organization's discipline of its clergy." In its September 2002 decision, *S.H.C. v. Lu*, the Washington Court of Appeals likewise dismissed on First Amendment grounds a claim that a Buddhist Temple negligently retained and supervised a grandmaster who convinced a follower that he could "save her life" and cure her headaches through a "Twin Body Blessing" which required her to have intercourse with him. Even though there was evidence that the monastery had notice of the manipulative conduct, the court reasoned, "we can see no way that a civil court could avoid interpreting the above religious doctrine in determining whether the Temple was liable for negligent supervision and retention."

The Catholic scandal has unfortunately provoked an alarming aggression by some government officials to use state power in ways that trample these constitutional principles. It is an old story. From 1855 to 1890, thirty-seven states, fearful of the "Catholic menace," passed "Blaine Amendments" to their state constitutions that sought to ensure that only public schools, then dominated by the Protestant culture and religion, would benefit from government funding. The 1922 Oregon legislature and statehouse controlled by Klansmen and Scottish Rite Masons all but forbade private schools in Oregon, so that the common schools might "Americanize the mongrel hordes." Today, prosecutors, legislators, and even a few judges are ignoring *Watson* and its progeny through the use of grand juries auditing diocesan administrations, legislatures regulating pastoral communications, and courts determining professional standards of care for bishops and other church officials.

For example, since January 2002 state and local prosecutors have convened over eighteen grand juries for the purpose of investigating Catholic dioceses including Manchester, Rockville Centre, Los Angeles, Boston, St. Louis, Louisville, Phoenix, Cincinnati, and Philadelphia. While grand juries are invested with extraordinary power including the ability to subpoena witnesses and documents, they are not above the Constitution and the First Amendment's limitation on government power. Many of these grand juries have, nevertheless, issued scores of subpoenas, reviewed thousands of confidential internal church documents, and acquired sworn testimony from hundreds of church representatives including bishops, vicars general, and even the secretaries who served them.

Earlier this year, the Suffolk County Grand Jury issued an 181-page report on its investigation of the Diocese of Rockville Centre in New York. This grand jury boasted that it had issued fifty-one subpoenas, "heard testimony from ninety-seven witnesses," and thereby acquired "unprecedented access to thousands of pages of records, memos, notes, and other confiden-

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tial documents." The documents it reviewed included the personnel files and canonically confidential archives for forty-three priests as well as privileged correspondence and reports from diocesan attorneys and mental health professionals.

Even though a New York grand jury's function is limited to investigating crimes and giving reports regarding misconduct of "public servants," the Suffolk County Grand Jury described and criticized the diocese's practices regarding the quality of its seminary formation process, its internal communications, its ministry to victims, and its defense and settlement of civil cases. It even published the amount of money that the diocese had accumulated to settle future cases. The grand jury admitted that its criticisms had nothing to do with criminal violations by the diocese when it issued no indictments and concluded "that the conduct of certain diocesan officials would have warranted criminal prosecution but for the fact that existing statutes are inadequate." The translation for this circumlocution is simply that the diocese and its officials violated no criminal statutes.

Absent violations of law, the grand jury then issued a series of moral and religious indictments of the diocese: "The history of the diocese . . . demonstrates that as an institution [it is] incapable of properly handling issues relating to the sexual abuse of children by priests"; the "response of . . . the diocesan hierarchy . . . was not pastoral"; "victims were betrayed by the diocesan hierarchy"; and the diocese's interpretation of the child abuse reporting statute was "callous in view of a priest's responsibility to minister to the people." Whether these criticisms are apt is not the point. The point is that respect for constitutional principle precludes a government body from pronouncing on whether a church wisely supervised its clergy, from declaring that the church is immoral and unpastoral, and from, as the Suffolk County Grand Jury did, making twenty-one legislative proposals to regulate churches. Having crossed the boundary between church and state, it is a particular concern that this grand jury, like the New Hampshire grand jury that investigated the Diocese of Manchester, proposed a mechanism by which it might repeat such church audits in the future.

In the final paragraph of its report, the grand jury stated that it was "mindful of the constitutional principle of the separation of church and state." If this grand jury was mindful of the constitutional principle, it certainly did not observe it. The author of the grand jury report understood that, because the diocesan officials had not violated any criminal statutes, the report was primarily a moral condemnation of diocesan practices. The opening sentence makes this clear. It quotes canon law as its true indictment: a "diocese is a portion of the people of God which is entrusted for pastoral care to a bishop." But the grand jury has no authority to enforce church law. The grand jury's message from this opening sentence to the end of its report was that the bishop of the Diocese of Rockville Centre and those who assisted him were bad pastors and religious hypocrites. Its mindfulness of the constitutional principle did not slow its exercise of government power over the church-minister relationship, confidential priest personnel files, and the professional duties of a bishop as regards his priests—subject matters which the First Amendment places beyond the government's jurisdiction.

Similar lines have been crossed by the legislative branch of government. A number of state legislatures—including those in Iowa, Colorado, Virginia, Kansas, Massachusetts, and New York—have considered making their child abuse reporting statutes more comprehensive by identifying clergy as mandatory reporters, by making the duty to report trump the penitential communications privilege, or by requiring reports even when the victim is no longer a child.

Even though the bishops committed in the Dallas Charter of 2002 to report every instance in which a priest is suspected of sexually abusing a minor, legislative imposition upon clergy of child abuse reporting obligations creates a constitutional problem almost never considered by legislators.

Reporting statutes generally require certain professionals to report instances of reasonably suspected "child abuse or neglect." Yet "child abuse or neglect" includes far more than the physical or sexual abuse of a minor. Many law enforcement officials interpret this language as also including the failure to provide medical care, or the failure to provide adequate supervision, as well as the causing of emotional distress. Because of their positions of trust and confidence, pastors know the troubled families in their congregations. They know of drinking problems, illnesses, financial difficulties, and emotional stresses. They learn of such circumstances through a variety of church communications, including prayer requests, requests for pastoral counsel, penitential communications, and even church gossip. They know of parents who have wounded their children with harsh words and parents who have left their children unattended for short periods of time. One pastor told me that he served a poor Hispanic congregation, many of whose members were illegal immigrants who never sought medical care for their children for fear of deportation. Many pastors, youth ministers, elders, and parishioners effectively intervene to help such troubled families.

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The constitutional problem arises when the government defines a pastor's obligations as requiring him to disclose pastoral communications. As the pastor who serves the Hispanic congregation stated, "I cannot minister to my flock if they know me as a government snitch."

Then there is the issue of defining bishop malpractice. Early in 2002, the Attorney General of Massachusetts announced that the cardinal archbishop of Boston should consult with him before the archbishop made any future priestly assignments. While he eventually retreated from this statement, most of the civil lawsuits being filed against Catholic dioceses contain similar contentions in the form of claims that a diocese should be liable for the negligent hiring, assignment, supervision, and retention of priests who sexually abused minors. Both the statement of the Massachusetts Attorney General and the claims made by the victims' attorneys seek government oversight over the church-minister relationship. Courts in Colorado, Louisiana, Maine, Minnesota, Missouri, New York, Texas, Washington, Wisconsin, and Wyoming have (properly) rejected such claims on First Amendment grounds. Other courts, however, have made findings that have the effect of handing to government the final say over who shall preside at worship, preach the gospel, and inculcate the faith.

When this constitutional boundary is breached, a judge or a jury effectively dons the miter and decides which prior failings are disqualifiers for future ministry. Some say prior sexual abuse of a minor is one such failing, but it is just a beginning. As early as 1993 the Colorado Supreme Court held in *Moses v. Diocese of Colorado* that a seminarian with low self-esteem and a history of depression should have been disqualified from serving as an Episcopal priest, even though he had never engaged in any prior sexual misconduct. One wonders if a church burdened by such oversight would have been permitted to hire such sinners (and future saints) as St. Peter, St. Paul, and St. Augustine.

Some public officials, in trying to fix what they incorrectly perceive as an ongoing problem, have given inadequate reflection to whether the Constitution permits the government to audit pastoral assignments, regulate pastoral communications, or define a bishop's duties toward his priests. When the media's fixation on the Catholic scandal subsides, we can be confident that the Church will still be standing. Let us hope that the First Amendment will be as well.

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Waking from the Dead

Wesley J. Smith

Terry Wallis recently woke up. For most of us, this would not be news. But for Terry it was a huge event: He had been unconscious for nineteen years due to injuries sustained in an auto accident. Indeed, upon awakening, he believed that Ronald Reagan was still President.

Wallis' recovery should give great pause to the bioethics movement and members of the medical intelligentsia, many of whom seem determined to read people like Terry out of the human family. In mainstream bioethics philosophy, being a human being is not itself sufficient to a claim of moral worth. What matters primarily is whether a "being" possesses sufficient consciousness or cognitive capacity to earn the label of "person."

Welcome to the surreal world of "personhood theory," under which people diagnosed with permanent loss of consciousness or the ability to meaningfully think and communicate with the world are denigrated as "nonpersons." Human nonpersons, in this way of thinking, are no longer deemed to be full and equal members of the human community. This means they have fewer rights and lesser value. (Other supposed human nonpersons include embryos, fetuses, newborn infants—sometimes referred to as "potential persons"—people with significant developmental disabilities, and people with Alzheimer's disease.)

The history of the human race demonstrates that whenever human beings are categorized as somehow "different" and "inferior," it inevitably leads to their oppression, exploitation, and death. Today this is proving to be true once again.

After a series of lawsuits, most famously the 1990 Nancy Cruzan case in the United States Supreme Court, all fifty states now permit profoundly cognitively disabled people to be dehydrated to death by withholding or withdrawing tube-supplied nutrition and hydration, as long as their families consent. Such action is not taken because supplying food and water is medically inappropriate, but because of judgments about the quality of these patients' lives. It is worth noting, in this regard, that many states permit *conscious* cognitively disabled patients to be dehydrated, if no family members object, even though these patients would have to endure the agony of going without food

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or water for the two or more weeks it generally takes to die by dehydration.

These cultural and legal developments have led us to the brink of applying personhood theory in constitutional jurisprudence. The case that has gone the farthest in this regard is California's *Conservatorship of Wendland*. Robert Wendland was an auto-parts salesman who suffered a catastrophic brain injury in a car accident. He was unconscious for sixteen months but slowly revived. Indeed, he eventually improved to the point that he could maneuver a wheelchair down a hospital corridor and respond to simple requests, such as removing and replacing colored pegs from a board.

At this point, Rose Wendland, Robert's wife, decided to withhold food and fluids, a move supported by the Lodi Memorial Hospital ethics committee. Before this could be done, an alarmed nurse anonymously warned one of Robert's sisters about the plan. Florence Wendland, Robert's mother, then sued to prevent the dehydration.

The case was fought bitterly for six years, ultimately being decided by the California Supreme Court a few months after Robert died of pneumonia. Florence won the case when the state high court ruled that as a matter of protecting the right to life of conscious cognitively disabled patients, a court-appointed conservator must prove by "clear and convincing evidence" that withholding tube-supplied food and fluids is in the patient's "best interests" or would have been what the patient wanted.

That much was fine. But frighteningly, the court also ruled that such basic constitutional protections do not extend to people who are diagnosed as permanently unconscious. In other words, according to the California Supreme Court, Robert Wendland enjoyed full constitutional rights when he was an auto-parts salesman. But he lost at least some of these protections during the sixteen months of his unconsciousness—only to regain them when he awakened. Or to put it another way, the court declared that unconscious people have lesser rights and their lives are entitled to fewer legal protections than conscious people—a radical decision that may mark the beginning of a personhood theory of constitutional jurisprudence in the United States.

The Wendland case initially involved a dispute over which family member had the right to refuse medical treatment for a cognitively disabled patient and ultimately the legal standards that should apply when there is family disagreement. But now, some bioethicists believe that doctors or hospital ethics committees—instead of patients and families—should have the final say whether or not to provide treatment in some cases. Under the doctrine known as "futile-care theory," many bioethicists urge that doctors be given the power to refuse wanted life-sustaining treatment based on their views about the lack of quality of their patients' lives. This would include not only tube-supplied food and fluids but potentially other medical interventions such as antibiotics, fever reduction, and respirators.

Among the first—but certainly not the only—patients that are being targeted for unilateral withholding of wanted treatment are profoundly cognitively disabled people just like Terry Wallis—that is, patients suffering from long-term unconsciousness. Indeed, one hospital futile-care protocol explicitly states: "Provision of any treatment other than comfort care to a patient in an irreversible coma, persistent (permanent) vegetative state, or with anencephaly [is] inappropriate." Under that protocol, if a doctor wished to withdraw treatment from an unconscious patient, he or she would merely have to "provide written justification" to the hospital administration.

There have already been a few lawsuits involving futile-care theory. Some have ruled in favor of the doctors, and some the patients. None, so far, has reached the appellate courts. Thus, whether doctors and/or ethics committees will receive the ultimate legal power to make such life-and-death nontreatment decisions remains to be seen.

As if this weren't alarming enough, human nonpersons with cognitive disabilities are beginning to be looked upon by some as a natural resource to be plundered for their body parts. There is even an effort underway by some in bioethics and transplant medicine to redefine death itself to include a diagnosis of permanent unconsciousness toward the end of gaining access to the organs of unconscious people for the purposes of transplantation.

This proposal is not limited to the fringe but is promoted by some of the world's most respected organ transplant professionals and ethicists. For example, in the November 1, 1997 issue of *Lancet*, a British medical journal, several doctors writing for the "International Forum for Transplant Ethics" urged that the legal definition of death be changed to include permanent unconsciousness so that "it would be possible to take the life of a patient (or more accurately stop the heart since the patient would be defined as dead) by a lethal injection, and then remove the organs needed for transplantation, subject to the usual criteria for consent." In other words, death would cease to be a matter of biology but would become a sociological construct. (It must be stressed at this point that these proposals have not yet been enacted.)

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Bioethicists have one version of how society should treat our most vulnerable brothers and sisters; the Wallis family has another. For nineteen years while Terry lay unconscious, they cherished him, visited him in the rehabilitation center where he resided, and even brought him home on special family occasions. In short, Terry wasn't ever viewed as a burden, he wasn't cast into the outer darkness of nonpersonhood, he wasn't deemed killable, he wasn't seen as being morally equivalent to the dead, but remained a beloved member of his family and society. Indeed, doctors say this special attention may have been a factor in his unexpected awakening.

This raises a crucial question. Do we want to follow the lead of the bioethics "experts" who would write off people such as Terry Wallis as expendable—or instead, follow the loving example of the Wallis family who never let the very real emotional and physical difficulties associated with his caregiving blind them to his humanity and inherent moral equality? The lesson of this story, it seems to me, is that the healing power of unconditional love should trump sterile intellectualism every time.

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Fretful Orthodoxy

Alan Mittleman

There is a pamphlet making its way, via the Internet, through the Modern Orthodox stream of the American Jewish community. Written by Gil Perl and Yaakov Weinstein, graduate students at Harvard and MIT respectively, the pamphlet presents itself as "A Parent's Guide to Orthodox Assimilation on University Campuses" and warns Jewish parents of the moral and spiritual corruption that awaits their children should they send them to elite secular universities. Perl and Weinstein speak as worried insiders, full of observations about how everything, from dorm life to Jewish Studies to the culture of the campus Jewish society, Hillel, holds the potential for subversion of Orthodox views and morals. The authors are clear that, as "grateful products" of secular universities, they do not reject secular education as such. Rather, they want to reveal its inherent pitfalls, as well as the problems rooted in the social environment in which learning takes place. They want the yeshiva high schools, which so many Orthodox students attend, to refrain from making "acceptance into an Ivy League school the barometer of student academic success."

What really troubles the authors is the ethos of the secular university itself, which may be summed up in Kant's still arresting phrase, *sapere aude*—dare to think! The penchant of the university for "unyielding skepticism" and for Cartesian nostrums about the need to purge oneself of all preconceived notions before pursuing truth is the most potent threat to the well-being of Orthodox youth. As a result, "Orthodox students in secular universities often find themselves attacked simultaneously by a myriad of challenging ideas. From day one Orthodox students often find themselves on the defensive in an attempt to ascertain what it is they believe, why they believe it, and whether they should believe it anymore." Precisely what practitioners of liberal education would count as success, the authors regard with grave suspicion—as well they should, if their aim is to preserve a traditional culture. But, one might ask, if one's aim is to preserve tradition, why go through a liberal education in the first place? Why think that you can have it both ways?

The desire to have it both ways, particularly with respect to education, is foundational to Modern Orthodoxy. Modern or "Neo" Orthodoxy, an intellectual product of the nineteenth century, was premised on the belief that one could live both according to Torah, in all of its full traditional rigor, and the "way of the land"—that is, the higher culture of modern Europe. The architect of Orthodox modernization, Rabbi Samson Raphael Hirsch, was of that Jewish generation that first began to taste university education. Hirsch was confident that traditional Judaism could hold its own against both radical religious reform (as practiced by his classmate and erstwhile friend at the University of Bonn, Abraham Geiger, the architect of Reform Judaism) and contemporary intellectual fashion. Unlike the traditionalist rabbis of Eastern Europe, Hirsch believed that the Enlightenment emphasis on education, religious tolerance, and rights was advantageous to Jews. He did not, as it were, pray for the defeat of Napoleon. He welcomed the unsteady strides toward emancipation in his native Germany. The Jewish future should not be held captive by the Jewish past. Judaism was more than the folkways of the ghetto. Although maximal observance of Jewish law remained the sine qua non of Judaism, the intellectual foundations of Judaism

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could be articulated anew in the idiom of the present age.

Although Hirsch did not complete his university education, he imbibed its ethos, writing affecting apologetic tracts in excellent German. His literary-theological project draws heavily on the Romantic currents of contemporary German thought to show how the Torah shaped the *Volksgeist* of the Jewish nation and how archetypal, natural man is completed by observing the Torah. Hirsch armed Orthodox youth with a rather sophisticated theology, which validated their participation in secular life and gave them intellectual tools to parry as well as celebrate its culture.

As Modern Orthodoxy took root in theology-averse America, it became a style rather than a coherent intellectual vision. Orthodox Jews built institutions, entered the professions, and established themselves solidly in the ranks of the middle- and upper-middle classes. As barriers against Jewish enrollment in the Ivy League fell, Orthodox Jews followed their coreligionists into Harvard, Yale, Princeton, et al. By the mid-1990s there was already a backlash. A group of five Orthodox students at Yale sought an exemption from the university's residence policy, claiming that compulsory residence in the dorms would expose them to promiscuity. They filed suit against the university, essentially bringing Yale up on a morals charge.

The present pamphlet focuses little on moral-sexual matters. Rather, its concerns go to the heart of Hirsch's synthesis itself. On its view, the intellectual values of liberal education as such are invidious to Orthodoxy. Take Jewish Studies, for example. Orthodox students might be drawn to such classes in order to "validate the beliefs with which they were raised or 'to get credit for learning Torah.'" What they find, however, is a "majority of professors [who] are Jews themselves but may have unorthodox views on the nature of the Torah and the Jewish people." Given the fact that only about seven percent of the Jewish community is Orthodox, it is not a surprise that the majority of Jewish professors are non-Orthodox. What is surprising, however, is the liberal anti-Orthodoxy of their views. Jewish Studies, far from being a safe intellectual haven from the wild seas of secular education, turns out itself to be a storm center. The authors refer to the most popular course at Harvard University in 1999, Professor James Kugel's class on the Bible, which enjoys an enrollment of nine hundred students. (The authors refrain from mentioning Kugel, an impeccable scholar and traditional Jew, by name.) The professor, wearing a "large, black kippah," nonetheless went on to relay the current theories of biblical criticism on the human authorship of the Torah. The combination of apparent piety and troubling heterodoxy "only served to confuse Orthodox students even further."

How should Orthodox parents and students cope with these alarming temptations? The authors do not rise to a Hirschian solution for their Hirschian problem. Their first line of defense is sociological rather than theological. Throughout the pamphlet they advocate more intensive socialization, partial isolation, and increased distance. "Our first step in preparing our students to successfully meet these challenges must be to redouble our efforts to produce stronger yeshiva high school kids whose eyes have been opened to the beauty of *yiddishkeit* and who have both an intellectual and a deep emotional attachment to it." Parents must not take their children's commitment to a "halakhic lifestyle" for granted; they must deepen the child's emotional attachment to traditional Jewish life.

Similarly, parents must not view the existence of Hillel houses, even those with provision of kosher food or traditional worship, as a panacea. Where is the kosher food served? Is it close to where students live? If not, they might be tempted to attend the nearest cafeteria when in a hurry. Indeed, the premium that Hillel puts on inclusiveness and the acceptance of all Jewish choices relativizes Orthodoxy, degrading it to just another lifestyle option. The authors relate an anecdote about an observant girl who was active in the Orthodox minyan when she entered college, but graduated "as a Reform Jew and president of Hillel's JbaGel (Jewish Bisexual Gay and Lesbians) group." Hillel, in their view, counts this as a "success story." The organization thus may be bad for an observant Jewish student's spiritual health.

At the same time, the pamphlet's authors warn Orthodox students not to go on the offensive and seek to convert other Jewish students to the "beauty of a halakhic lifestyle." The active recruitment of non-Orthodox Jews (known as *kiruv*, literally "bringing near") has "on numerous occasions resulted in disaster." In an effort to show nonobservant students that Orthodox Jews can be just as fun-loving and "normal" as they, the Orthodox students frequently bend their halakhic practice or introduce illicit innovations, such as mixed seating sections in their prayer groups. *Kiruv* work may be too dangerous for the average Orthodox student who, lacking answers for his curious interlocutor's questions, comes to question the adequacy of his own faith. It seems, then, that the Orthodox student should withdraw and leave such efforts to the "trained *kiruv* professionals."

A mood of fretfulness thus pervades the pamphlet. The tactics it advocates—emotionalism and disengagement—attest to a failure of intellectual nerve.

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There is a theological vacuum behind the anxiety. Although the authors gingerly suggest that the yeshiva high schools expose their students to "potentially troubling theories such as evolution and the Documentary Hypothesis," they also recognize that the high schools might "lack the resources to successfully implement this proposition." Better, then, for it to be dealt with by the intellectual and spiritual leaders of Modern Orthodoxy. They are the ones who ought to "articulate sophisticated responses to the complex questions" raised by contemporary Bible scholarship, Jewish Studies, and so forth. But who are these leaders today? Modern Orthodoxy has no one approaching the stature of its late leader, Rabbi Joseph Soloveitchik. And does the posture of waiting for authorities to work out strategies really befit people who are products of the modern university? Should they not have learned to think for themselves, especially in an area touching intimately on the quality of their own faith?

There is a cautionary tale here about the neglect of theology. Modern Orthodoxy for too long has relied on sociology—familism, solidarity, youth groups, institutional loyalties—instead of intellectually sophisticated apologetics. It has written off the bolder elements of its own Hirschian legacy, let alone any ongoing engagement with modern philosophy, in favor of an increasingly otherworldly fundamentalism. Its synagogues have jettisoned the hoary Hertz Pentateuch, which, to be sure, was florid in its Victorian prose but also honest in its confrontation with modern scholarship, in favor of the rigidly fundamentalist Art Scroll translation. Likewise, Modern Orthodoxy's immense success in building up a socially vibrant culture in the American suburbs has distracted it from the requisite intellectual task of providing depth and justification for its way of life.

Perhaps American multiculturalism and postmodernism have blunted the urgency of the need. Perhaps the thunder on the Orthodox right has made adherents of Modern Orthodoxy nervous about the deep engagement with culture that good theology requires. Perhaps durable American optimism has persuaded them that you can have it all, contradictions be damned. Whatever the case, the result is the melancholy dilemma reflected in the "Parent's Guide to Orthodox Assimilation on Campus"—eager participation in the American dream, accompanied by unsettling American nightmares.

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The Supreme Court Rules

Michael M. Uhlmann

Not so very long ago, defenders of judicial activism felt it necessary to justify how an unelected body of lifetime appointees could become the definitive voice of constitutional authority in a democratic society. One thinks, for example, of Professor Alexander Bickel of Yale Law School, who understood that judicial review as practiced by the Warren Court differed not only in degree, but in kind, from prior custom. That the modern Court wandered far and wide across the political landscape was, in Bickel's view, not only unprecedented but deeply troubling. The Court, he feared, had grown increasingly cavalier about the principles of representative government; it had begun to sever itself from the ground of its own authority.

Bickel, a liberal by political conviction but a Burkean by temperament, sought to provide a qualified justification for modern judicial review, one that limited judicial power no less than overweening legislative majorities. He affirmed many of the judiciary's new ventures, especially in race relations, but thought the Supreme Court prided itself far too much in being the premier engine of social progress. Bickel was far wiser than most of his colleagues in recognizing the practical limits and political dangers (both to the country and the Court) of trying to effect radical social change by judicial decree. His cautionary reflections, set forth in such works as *The Least Dangerous Branch* and *The Morality of Consent*, are not much honored these days. Contemporary academic commentators seem to have forgotten (if they ever had much sympathy for) Bickel's prudential case for judicial restraint. If anything, they celebrate free-wheeling judicial interpretation for precisely the reason that Thomas Babbington Macaulay once faulted the Constitution itself: it was, he said, all sail and no anchor.

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Modern judicial review began, inauspiciously enough, with a footnote. It appeared in *U.S. v. Carolene Products*, a case otherwise unremarkable save for footnote 4, which presaged a change in judicial policy that in the fullness of time would profoundly alter the Supreme Court as well as the common understanding of the Constitution itself. The year was 1938, which marked the end of the war between Franklin Roosevelt and the High Court, a struggle that featured among other things the President's proposal to stack the Court with jurists congenial to the constitutional assertions of the New Deal.

The court-packing scheme ran into a political firestorm and failed to pass, but the Court was nevertheless chastened. Retirements, deaths, judicial recantations, and new appointments eventually gave Roosevelt what he wanted. Henceforth, the Court would yield to Congress and the Executive almost unfettered authority to enact economic and social welfare legislation. *Carolene Products*, which upheld federal regulation of milk prices, was in this larger context but a routine certification of the Court's political submission. But now that the Justices had removed themselves from the debate about the constitutional propriety of the New Deal revolution, what important work was left for them to do?

The question sounds naive today, but was hardly so in 1938, when the idea of limited government still had purchase and that of judicial supremacy had yet to be born. The answer, it turned out, was plenty, and footnote 4 provided a road map for the work that lay ahead. While the Court would normally presume the constitutionality of laws governing economic activity, the

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footnote said, "a more searching judicial inquiry" would occur when it confronted laws or policies impinging upon civil and political rights. Most important among these were guarantees specified in the Bill of Rights (which the Court had already begun to apply against the states via the Fourteenth Amendment); rights integral to the political process, such as voting and political activity generally; and rights associated with what the Court called "discrete and insular minorities." (Although the Court had racial and religious minorities chiefly in mind, this last category proved to be highly elastic.)

When read without reference to the six decades of aggressive judicial activism that followed, footnote 4 has a surface plausibility that portends no apparent radical turn. If anything, it approaches its subject in a roundabout, almost tentative manner, as if the Justices themselves were unsure of where it might lead. When read in light of subsequent history, however, it proved to be the harbinger of revolutionary implications that not even the most liberal members of the 1938 Court would have dared imagine. In hindsight, footnote 4 accomplished two things at once: it established a framework for a massive expansion of Court business and, in skeletal form at least, the philosophical justification for that expansion. On its unpretentious foundation the Court erected the machinery that would over the decades to come convert traditional judicial review into judicial supremacy.

The operative formula was disarmingly simple: the intensity of judicial scrutiny would vary with the class of rights at issue. When a right was deemed to be "fundamental," "strict scrutiny" would apply, meaning the government would have to show a "compelling interest" to justify the law or policy in question — an almost impossible burden. "Ordinary scrutiny" would apply to most other rights, in which case the government would need to show merely a "rational basis" for its action. (In later years, the Court carved out yet another tier, called "intermediate scrutiny," and began to apply it to gender classifications.)

The Scrutiny Game—and it is not too much to call it that—has over time acquired all the attributes of scholastic formalism, replete with multi-part threshold inquiries, triggering mechanisms, and balancing tests, along with other heavily footnoted refinements of a sort much beloved by law professors. Technical academic commentary, however, often obscures the crucial point, which is not what a given level of scrutiny may or may not entail, but how a label gets attached to a right in the first place. That determination, to borrow from Justice Robert Jackson in another context, "must be divined from materials almost as enigmatic as the dreams Joseph was called upon to interpret for Pharaoh."

Yet from it almost everything else of importance follows. The Justices may declare, as they have on many occasions, that rights are "fundamental" if contained in the Bill of Rights or otherwise included within the due process and equal protection clauses of the Fourteenth Amendment. Those are, however, anything but hermetically sealed categories; indeed, the Justices themselves determine their content and meaning. (When William O. Douglas discovered in *Griswold v. Connecticut* a right to privacy in "emanations, formed from penumbras" of various Amendments, was he talking about something *in* the Bill of Rights? How would one know? How would one object?)

Parse the scrutiny rules as one will, at the end of the day the Justices control both ends of the balance: they define the nature and importance of the right at issue, they define the countervailing governmental burden, and they can tweak the balance on either side of the scale more or less at will. Altogether, the formula establishes a foolproof method for securing judicial hegemony over both legislative policy and the definition of rights; whatever the public policy result, the Court determines its outcome.

Had the Justices been otherwise disposed to restrain themselves, the self-empowering tautology of the scrutiny formula need not have led inexorably to judicial supremacy. It was, after all, merely an instrument for the expansion of judicial authority that said nothing about how it would be deployed. The decisive change came when the long march from *Carolene Products* passed through *Brown v. Board of Education*, the Ur-decision of judicial supremacy, which seems to have endowed the Justices with a sense of missionary zeal. Though properly hailed as the clarion call that helped to free American blacks from legal and political bondage, *Brown*'s greater significance lay in what it did to the Court itself. Confronted by the injustice of Jim Crow on the one hand, and on the other by long-standing constitutional interpretations limiting the scope of available judicial relief, the Justices at first felt boxed in by their own precedents. But if the Court's prior rulings had indeed painted it into a corner, it ultimately resolved the dilemma by painting a door on the wall and stepping through: in so many words the Court said that if the Constitution as it stood was unable to provide the necessary relief, the Constitution would have to yield. And yield it did, to all sorts of extra-constitutional sources of authority, especially sociological and psychological arguments that were selectively deployed to advance the Justices' newfound desire for social reform.

The rest, as they say, is history. Like the man who, armed only with a hammer, begins to see everything as

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a nail, the Court found new targets of opportunity, which, precisely because the Justices had freed themselves from the burdens of constitutional text and tradition, must have seemed all the more inviting. If achieving racial justice justified departure from the Constitution, why not other urgent social causes as well? The reformist agenda soon became a long list. The Court completed the work, begun three decades earlier, of nationalizing first the speech and then the religion clauses of the First Amendment, providing both with a thoroughly modern spin. Then, by gradual degrees, it nationalized everything else in the Bill of Rights. The due process and equal protection clauses of the Fourteenth Amendment were endowed with new substantive content and aggressively deployed to impose new federal standards upon the states across a wide range of public policy. Among other things, the Court wrote what amounted to a new, national code of criminal procedure, almost abolishing capital punishment along the way. It revolutionized the law dealing with legislative apportionment and districting and, in doing so, contrived a novel theory of political representation that, if taken seriously, casts doubt on the constitutional legitimacy of the Electoral College and the United States Senate.

This work required the creation of a dizzying array of new constitutional rights whose existence had previously been undetected, and whose meaning was controlled by the Court itself. The high (or low, if you prefer) point was reached in *Griswold*, *Roe v. Wade*, and their progeny, which read into the Constitution a highly questionable theory of individual autonomy wholly at odds with its original principles. All this, and more, was done in the name of advancing social justice; and it was done, for the most part, with only a tenuous connection to constitutional text and tradition, or to judicial precedent. The rise of modern judicial review, to be sure, is a complicated tale, marked by occasional detours and tactical retreats, but its main lines are now clear. Although the Court entertains few constitutional objections to government regulation of the economy, on almost every other subject it not only entertains but frequently invents them. Today, we have judicial deference on most matters affecting the administrative state, and judicial supremacy on essentially everything else, including religion, morals, social life, and culture.

Judicial supremacy means that on essentially all matters that determine who and what we are as a political society, the Supreme Court both makes the rules and, through its opinions, sets the parameters for public debate. Whatever one may think about particular rulings as a matter of policy, a striking feature of modern constitutionalism is how little elected officials have to do with its formulation. More telling yet is the extraordinary deference accorded by those same officials, not just to the Court's particular judgments but also to the often radical constitutional theories that justify them. Indeed, for every Member of Congress who rails against judicial excess, there must be two who cannot scurry fast enough to introduce legislation to comport with the latest ruling from the High Court. The Congress of the United States is the last place these days where one would expect to hear a serious extended debate about constitutional principles. Even popular Presidents—save when their own powers are at issue—tend to defer to the Court's reasoning on matters of national importance.

The modern Court, in a word, dominates constitutional law in a manner that has no precedent in American history. We have had powerful Courts before, but none so presumptuous about its own authority or about its exclusive claim to divine constitutional meaning. Not only does the modern Court make the rules, it feels increasingly free to alter them as it goes along. Change seems to have become the ultimate constitutional desideratum. Thanks chiefly to the Supreme Court, the Constitution is now widely understood to derive its legitimacy not from the permanent truths on which its provisions rest, but from their more or less endless capacity (as divined by the Justices) to adapt. The Court has given us a "living Constitution," by which the Court simultaneously justifies its interpretive plasticity and leaves its critics in the unenviable position of having to defend a "dead" Constitution.

The living Constitution did not spring full blown from the brow of Justice William Brennan, the most effective and articulate exponent of the idea for more than twenty years. The ground for its reception had been decisively prepared for many decades by the Progressives' critique of the founding, which reduced the original Constitution to an outmoded, rigid eighteenth-century contrivance. As Woodrow Wilson famously argued, whereas the original Constitution took its cues from Newtonian mechanics, a modern Constitution should be guided by Darwinian principles, which is to say the inevitability of permanent change. The Progressive indictment, in turn, paved the way for the reception of various species of legal realism, sociological jurisprudence, and moral relativism that came to dominate the legal academy.

The academics' Constitution, which has willy-nilly become the Court's, is commonly described as a framework for democratic aspiration, by which is meant a Constitution that is in a constant state of becoming. Toward what end the proponents do not precisely say, at least for public consumption, but they remain confident that the Supreme Court should be the preferred instrument through which the details are

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implemented in beneficent fashion. The living Constitution should be a protean artifact, changing shape in response to the impressions made upon it by what Justice Oliver Wendell Holmes called "the felt necessities of the times." For reasons that have yet to be adequately explained, the Supreme Court has been vested with the authority to determine just what those necessities might be.

Under this new dispensation the Court is increasingly seen as a political institution, different in form and customs from the political branches but not essentially different in kind. And why should it not be so understood? One can scarcely name an issue of political or moral significance on which the Court has not opined or suggested how we ought to think. That is why judicial nominations are now routinely freighted with hot political debate; and that is why the full glare of media attention now focuses on the Court whenever a major decision is pending.

The Court has acquired substantial power over our political culture. The public, which knows little about the technical details or philosophical implications of constitutional doctrine, knows that much. And so do the Justices. The remarkable thing about *Roe v. Wade* is not only the substance of the rule it announced, but the fact that the Court felt so little compunction about imposing a new and radical rule upon the entire nation. But for all the controversy generated by the abortion decisions, the public is generally not disposed to chasten the Court for its excesses on that or any other subject. The modern Court has tutored the public well on how it ought to think about judicial power and the Constitution. And its central teaching, as I say, is not about the permanent principles that justify representative government but about the inevitability of, indeed the duty to, change.

The public is by now so well inured to judicial supremacy and the concept of a living Constitution that it has lost the capacity to be shocked by the Court's opinions. Every term seems to bring some hitherto unobserved layer of constitutional meaning, or a gloss reversing or substantially qualifying an old understanding. Just when one thinks the Justices might zig, they zag, but whichever way they turn, their reasoning seems increasingly arbitrary and contrived. This is certainly true of the most noteworthy cases of the recently completed term, the affirmative action cases (*Gratz v. Bollinger* and *Grutter v. Bollinger*) and the sodomy law litigation (*Lawrence v. Texas*). Many of the other cases, though of immediate interest mainly to technical experts, show how deeply invested the Court has become in the details of legislative policy.

Of more general interest, the Court sustained California's "three-strikes" law, though we have no reason to think that this will be the last time that issue gets visited. It also upheld the Children's Internet Protection Act against a First Amendment challenge. As with most congressional efforts to stem the tide of pornography, the practical effect of the legislation is likely to be quite modest. Despite occasional caviling, Congress long ago acceded authority on the subject to the Court. The Court also dealt last term with anti-abortion demonstrators, whose First Amendment rights had been substantially curtailed by the Justices in recent years, and finally did the right thing: it held that these protestors could not be tried for extortion under the Racketeer Influenced and Corrupt Practices Act (aka, RICO). And in a legislative redistricting case (*Georgia v. Ashcroft*), the Court upheld a state Senate plan that reduced minority population in a number of districts (called "retrogression"). Though the details of voting rights law can glaze the eyes of even experienced and hardened practitioners, the interesting feature of this litigation is that the Court once again changed the rules of the game just when everyone thought they finally knew what the old rules were. The Court's endless tours of redistricting's political thicket have not been its finest hour. Courtesy of the Court's instruction, retrogression was until now an almost absolute no-no. The latest Georgia case appears to void that rule—or so we think — by opening the door to a multifaceted "all relevant factors" test. Stand by for more litigation, lots of it, and welcome once again to the world of living constitutionalism.

The Court's two ventures into the affirmative action thicket fared no better. It began its journey twenty-five years ago in the *Bakke* case when it ruled that a white medical school applicant had been victimized by a minority admissions quota. Although Alan Bakke won his case, no opinion could command five votes, which is in itself an interesting comment on contemporary judicial rule-making. One would think that on so sensitive a matter as the use of racial criteria the Court would take special care to devise a relatively bright-line rule. But one would be wrong. In the event, the decisive fifth vote on the judgment was provided by Justice Lewis Powell, who issued an opinion that no other Justice joined.

Until this year, the Court had in the ensuing quarter century studiously avoided the use of affirmative action in educational settings. During the just-completed term, however, it took two bites at the apple. The resulting opinions, however, are no more digestible than what the Court served up in 1978. The undergraduate case (*Gratz*) entailed a palpable quota that no amount of parsing could disguise.

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("Underrepresented minorities" automatically received a sizeable admissions bonus solely because of race.) The Court correctly found an equal-protection violation, although three Justices, against all evidence, would nevertheless have sustained the admissions program.

Justice Ruth Bader Ginsburg's dissent in *Gratz* offers an interesting insight into the inclination of certain Justices to bend constitutional rules in the interest of achieving "higher" social goals. She argued, among other things, that sustaining the admissions program would be "preferable to achieving similar numbers through winks, nods, and disguises." This prompted a pointed reply from Chief Justice William Rehnquist in his opinion for the Court: surely Justice Ginsburg was not suggesting that universities would pursue affirmative action programs after they were found to violate the Constitution? Her recommendation, he added, reduced itself to the proposition that constitutional violations should be dealt with "not by requiring the universities to obey the Constitution, but by changing the Constitution so that it conforms to the conduct of the universities." Game, set, and match to the Chief, but his debater's-point response is unlikely to affect the course of Justice Ginsburg's jurisprudence, or that of her fellow dissenters.

Rehnquist's opinion in the undergraduate case attempts to extract a much-needed bright-line rule that the Court's prior rulings have so assiduously avoided. Justice Sandra Day O'Connor's opinion in the law school case (*Grutter*), by contrast, muddies the waters once again and, by so doing, will undermine the clarifying thrust of the undergraduate case. Stripped to its essentials, her endeavor bestows a constitutional benediction upon the intellectual legerdemain that enables universities to practice racial discrimination. What Justice Ginsburg failed to accomplish by being too candid about "winks, nods, and disguises," Justice O'Connor has accomplished by banishing candor altogether. Her opinion not only runs head-on against Rehnquist's, it runs against arguments she herself has embraced in any number of cases, especially those dealing with racial set-asides in government contract programs.

The mischievous core of her opinion lies in the proposition that "diversity" is a compelling government interest. As employed by universities, however, diversity is but an ideologically rigged neologism for racial discrimination by any other name. Once detached from that purpose, it is an utterly vacuous term that cannot provide any sort of coherent rationale for state action. Significantly, O'Connor never discusses diversity as such, and for good reason. It is a concept that disintegrates upon close examination, as recent studies by Peter Wood and Peter Schuck demonstrate to a fare-thee-well.

Its legal locus classicus occurred in Justice Powell's *Bakke* opinion, where he wrote that the achievement of "*educational* diversity" (emphasis added) constituted a compelling interest that, in turn, could justify the use of race as one "plus factor" in university admissions.

But until Powell bestowed constitutional dignity upon the concept and thereby transformed it into a legal term of art, diversity was little more than an armchair colloquialism whose meaning was infinitely variable. Once he did so, however, the term acquired a life of its own, spawning a cottage industry of books and articles that sought to make racial quotas intellectually and constitutionally respectable. Although Powell spoke for no one but himself in *Bakke*, universities and their lawyers treated his rationale as if it were the law of the case. Alan Bakke won his case, but universities continued to do to others what his medical school had done to him, being careful, however, to dissemble their actions behind the screen of diversity rhetoric.

Some schools were more sophisticated than others in this endeavor. Indeed, the University of Michigan admissions programs at issue in *Gratz* and *Grutter* demonstrate the range of difference. The law school cloaked its discriminatory designs. The undergraduate college, no doubt because it had to deal with a much larger pool of applicants, resorted to a crude quantitative formula that not only looked like, but was in fact, a racial quota system. The law school scheme, by nominally eschewing the hard minority bonus formula employed by the undergraduate college, made it appear that its admissions program was "individually tailored"—that is, not controlled by racial criteria. Five Justices bought into the ruse, even though its operative effect was indistinguishable from the racial mischief ostensibly condemned in the undergraduate program. As the Chief Justice demonstrated in his dissent, although the law school claimed that each applicant was considered on his or her individual merits, the percentage of minority candidates admitted precisely tracked with the percentage who applied.

Justice O'Connor gets around this fatal defect—fatal, that is, if you take the undergraduate case seriously—by averting her gaze; what she declines to see, she doesn't have to deal with. To be more precise, she insulates the law school's racial balancing program against close inquiry by wrapping it in the raiment of the First Amendment. It would be not only unseemly but legally improper for the Court to inquire into an academic institution's self-defined educational mission. So much for strict scrutiny. In similar fashion, she bows without inquiry to the law school's claim that a major purpose of

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its admissions program was to obtain a "critical mass" of minority students. Apart from the fact, pointed out by the dissents, that the program in fact yielded nothing like a critical mass, the very concept of critical mass turns to dust as soon as it is touched. But once again, O'Connor averts her gaze by deferring to the school's right to define its own educational policy.

Feeling the weight, no doubt, of the Court's prior precedents (not to mention some of her own opinions), Justice O'Connor makes a rhetorical bow by noting that a program designed to achieve racial balance would of course violate the equal protection clause. But her gesture is only rhetorical. By deferring to the school's right to define its educational mission, she estops the Court from even looking at, much less examining, evidence revealing the law school program to be, in both purpose and effect, a racial balancing scheme.

To analyze her opinion in this way, however, is to confer upon the Scrutiny Game an intellectual dignity it does not truly deserve. The Court long ago made clear that government policies dealing with race would be subjected to the strictest scrutiny. But as the university admissions cases demonstrate, one man's strict scrutiny can be another woman's once-over-lightly. Justice O'Connor's opinion, in the end, is a palpably result-oriented exercise, driven ultimately by a kind of racial noblesse oblige, that sheds more light on the Court's arbitrariness than it does on the substantive legal questions at issue. Although the cases were handed down on the same day, *Gratz* points in one direction, *Grutter* in another. On the important question of whether and to what extent government may take race into account in distributing benefits and burdens, we know little more than we did before, except that the achievement of "diversity" (undefined) may sometimes (precisely how or when is hard to say) be considered a compelling state interest sufficient to justify benign (for some groups but not others) racial discrimination. What we do know, very clearly, is that the Court, and the Court alone, is in charge. The living Constitution may give, and it may take away, but only the high priests are empowered to divine the meaning and application of its protean provisions.

Justice O'Connor's constitutional divinations in *Grutter* further muddled an already badly confused body of law on an important subject. Its likely result, as Justice Clarence Thomas remarked in his eloquent and passionate dissent, will be to perpetuate the very racial stereotypes the liberal majority believes it is helping to eliminate. Universities have been skilled practitioners of racial discrimination under the guise of diversity for a long time, and *Grutter* will therefore effect no radical change in policy. The same cannot be said of Justice Anthony Kennedy's opinion for the Court in the homosexual sodomy case (*Lawrence v. Texas*), the implications of which are indeed radical and likely to be with us for a long time to come. If *Grutter* is a more or less routine example of how the Court alters its standards of review to effect a particular policy result, *Lawrence* reveals the extent to which living constitutionalism is imbued by a profoundly postmodernist agenda.

The energizing principle of juridical postmodernism may be found in the Court's invention of a right of privacy, which entered constitutional law formally with the *Griswold* case in 1965. Privacy is a multilayered concept whose meaning escapes the bounds of mere dictionary definition. At what might be called a commonsense level, everyone is for it, which is why *Griswold*'s narrow holding (that married people ought to be able to obtain contraceptives) was generally accepted. Though it piggy-backs on commonsense understanding, the Court's embrace of privacy is something else altogether. As a juridical concept, privacy is heavily freighted with a larger ideological agenda, one that goes far beyond even sexual matters; it has become a vehicle for the idea of autonomous individualism generally.

The *Griswold* Court was cautious in announcing the privacy concept, partly because its constitutional provenance was so weak, and partly because the Court realized, as the public did not, the far-reaching implications of its decision. Although the rationale of the case implied a generic right of sexual privacy, the Court was careful not to draw attention to that fact. It spoke instead of the importance of marriage to society and of the importance, therefore, of the right of married people to decide whether and when to have children. But *Griswold*'s principle could not be so easily cabined, as the Court demonstrated seven years later in *Eisenstadt v. Baird*, which prohibited the government from proscribing the sale of contraceptives to single people. Of a sudden, the right of sexual privacy was no longer tethered to marital intimacy or the protection of marriage as an institution. It now appeared that the Constitution protected consensual sexual activity in general (at least for heterosexuals), a point underscored a few years later when the Court approved the sale and distribution of contraceptives to minors. The concept of sexual privacy, in short, had acquired wings, and it was only a matter of time before homosexuals would lay claim to the argument.

The next step came with the abortion cases, which for liberals stand for far more than a woman's right to control her own body. By the time we get to the *Casey* decision in 1992, Justice Kennedy is no longer content to defend abortion as a private choice whether or not to

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procreate. The right to abortion must be defended because it is an expression, but only one expression, of a generic right of personal autonomy: "At the heart of liberty is the right to define one's own concept of existence, of the meaning of the universe, and of the mystery of human life." To those who have criticized this breathtaking leap into postmodernist metaphysics as a radical departure from constitutional norms, Justice Kennedy offers an even more breathtaking answer, which he sets forth in the concluding paragraph of his *Lawrence* opinion. If those who drafted and ratified the original Constitution and the Fourteenth Amendment had only known what he knows about "the components of liberty in its manifold possibilities, they might have been more specific." They, too, it appears, would have been exponents of living constitutionalism and defenders of modern theories of moral autonomy. If only James Madison had studied with Ronald Dworkin rather than John Witherspoon, he would have seen the light.

This remarkable concluding paragraph is highly revealing and, in a sense, tells you everything you need to know about what precedes it. The Court ruled in *Lawrence* that the government may not outlaw homosexual sodomy based on moral and religious opinion, or even a desire to protect the traditional family. Justice Kennedy's rationale for this conclusion prompts a number of thoughts, none of them kind. It demonstrates within a relatively small compass the essential thrust of living constitutionalism—its presumption of judicial supremacy, its deconstruction of legal history, its contempt for traditional moral sensibilities, and its reliance on modern Supreme Court cases, rather than constitutional text and tradition, as the more or less exclusive source of constitutional authority.

It also demonstrates that the majority is thoroughly invested in postmodernist conceptions of morality and the human person: the Constitution is protean because human beings are protean creatures, making up their morality as they go. What was held to be true in the eighteenth or nineteenth centuries, or even in the twentieth century, cannot bind us today.

Not even what the Court itself said seventeen years ago about homosexuality can any longer bind us. *Lawrence* purports to overrule *Bowers v. Hardwick*, which sustained Georgia's homosexual sodomy statute in 1986. One must say "purports" because the *Bowers* Court emphatically refused to designate homosexuality as a "fundamental" right and, by doing so, upheld the Georgia law in accordance with the "rational basis" test. Justice Kennedy also declines to label homosexuality as a fundamental right. He nevertheless subjects the Texas statute to what can only be called "strict scrutiny," although he refuses to acknowledge that that is what he is doing. His approach is the obverse of what Justice O'Connor did in *Grutter*. There, where race was at issue she of course purported to apply strict scrutiny but in fact did nothing of the kind. Here, Kennedy purports to apply "ordinary" scrutiny while in fact imposing much stricter standards. The Scrutiny Game continues, making a mockery of the Court's principal reviewing technique, and revealing just how manipulative the Justices can be when they want to reach a particular result.

It will be said, of course, that the Court sometimes makes mistakes and that there is nothing inherently wrong with overruling wrongly decided precedent. That is true enough, but it is an odd argument to use in defense of the Kennedy wing of the Court. It was only a few years ago, after all, that the Court's liberals took particular umbrage at the suggestion that *Roe v. Wade* had been wrongly decided. The rule announced in *Roe* was not only the leading example of gross judicial overreaching; it was clearly unworkable, as even many liberal supporters of the Court pointed out.

When the question of *Roe*'s continuing viability could no longer be avoided, however, the Court's majority delivered a long lecture in *Casey* on why it had a duty to sustain *Roe* despite its palpable flaws. The public had a right to expect that on important issues the Court's opinions would have permanence. The Constitution must not only be, but must be seen as, the repository of enduring principles. As for widespread sentiment opposing the decision, the Court had a duty to rise above raging currents of public opinion. Most important of all, the reputation of the Court as the expositor par excellence of constitutional meaning was at stake. What would happen to respect for the rule of law if the Court was seen to lean now this way and now that?

For reasons only the *Lawrence* majority can explain, none of these reservations had purchase on the decision to overrule *Bowers*. The case had simply been wrongly decided, and that was that. *Casey*'s "duty" not to overrule *Roe* becomes in *Lawrence* a duty to set *Bowers* aside. The principal flaw in *Bowers*, Kennedy argues, was that the 1986 Court failed "to appreciate the extent of the liberty at stake." Specifically, the Court got the question wrong. It was not, as Justice Byron White had said, the right of homosexuals to engage in sodomy as such, but the generic right of sexual privacy of which homosexual intimacies were merely a part. And sexual privacy was but a subset of a broader right of personal autonomy. The 1986 majority, in short, had failed to appreciate the higher learning about personal autonomy set forth in such cases as *Griswold*, *Eisenstadt*, and *Roe*, and as

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comprehensively articulated by Kennedy himself in *Casey*. In addition, the *Bowers* Court did not have the benefit of Kennedy's opinion for the Court in *Romer v. Evans* (1996), striking down on equal protection grounds a Colorado plebiscite that sought to curb "special" rights for homosexuals. Opposition to homosexuality, Kennedy there suggested, betrayed a mean-spirited "animus" against a class of citizens that could not be justified by any legitimate public purpose.

Bowers was also flawed, Kennedy argued, because it mistakenly thought that opposition to homosexual sodomy had "ancient roots." In a discussion eerily reminiscent of Justice Harry Blackmun's deconstruction of long-standing legal strictures against abortion, Kennedy noted that scholarly opinion, although mixed, suggests that opposition to homosexual sodomy is neither particularly ancient nor particularly well-rooted. But, Kennedy adds, even if such opposition were as widespread as *Bowers* suggested, it would still not avail. Whatever moral opinion may have held in the past, it need not overly concern our more enlightened era.

To demonstrate modern enlightenment, Kennedy cites recent changes in state laws showing greater tolerance for homosexuality. But taking note of what state legislatures do or don't do is a game that can be played any number of ways. Why are states that have repealed sodomy laws relevant, but not others? Why, as Justice Antonin Scalia points out in his dissent, did the Court not note the numerous lower-court judicial decisions that have relied on *Bowers*? Clearly, the majority did not mean that the Court should take its constitutional cues from what state legislatures and courts do or fail to do. What it did mean is that the Court will take judicial notice of legislative and judicial action when it moves in one direction only. The Court thought nothing of overruling the abortion laws of all fifty states in 1973, and had subsequently shown equal contempt for the thirty-odd state legislatures that have attempted to restrict partial-birth abortion. On the particular subject of homosexuality, the Court might also have noted the enactment of a federal Defense of Marriage Act as well as analogous statutes enacted by thirty-seven states. But Kennedy cites none of the abundant evidence suggesting that tolerance of the homosexual lifestyle may not be as strong as he thinks it is. Finally, whichever way the evidence points, why should the citizens of Texas be bound by what the citizens of New York or California or any other state decide to do? Kennedy never addresses that point. He simply assumes that history is moving in a certain direction and that Texas needs to get on board. Its failure to do so, he in effect argues, can only be explained in terms of its reactionary opinions about, or an unjustifiable animus against, homosexuality.

Justice Kennedy does not stop at the United States in his search for evidence of historical enlightenment. He cites, among other extra-constitutional sources of authority, contemporary opinion as reflected in certain foreign legislative and judicial decisions favoring homosexual rights. But, as with his reference to changes in domestic law, his survey of foreign law is highly selective. He makes no note of foreign statutes or judicial rulings that might point in the opposite direction. Apparently, moral sentiment both at home and abroad is a one-way ratchet: it is to be favorably noted when it supports the right of sexual autonomy, but ignored or derided when it expresses opposition. More importantly, Justice Kennedy never says how or why foreign legal or political opinions have any relevance for the United States Constitution. He does not, of course, cite foreign authority as controlling precedent; but the interesting point is that he cites it at all. In any event, the implication is ominous. It is bad enough that we do not know in which direction the Court will take us next when only domestic law is at issue. Do we now have to worry that foreign law and custom will be read into the Constitution as well?

Much more could be said about Justice Kennedy's opinion, but most of it was brilliantly articulated in Justice Scalia's dissent, which takes the majority's rationale apart brick by brick. Scalia points out the dangerous implications, both legal and political, not only of the Court's decision but of living constitutionalism generally. *Lawrence* is substantive due process with a vengeance, perhaps the broadest application of that discredited doctrine in the Court's history, broader even than *Roe*. At least the late-nineteenth- and early-twentieth-century judicial acolytes of laissez faire limited the doctrine's application to the right of commercial contract. In Justice Kennedy's hands, the due process clause has become an open-ended invitation for the Court to roam at will through every piece of morals legislation contained in every statute book in the nation.

This will be denied of course, and as a practical matter there is only so much damage that even a determined Court can do in adjudicating particular cases and controversies. But what the Court chooses to do narrowly, through its docket, is only the tip of the iceberg. Should the majority choose to expand upon the doctrine announced by Kennedy in *Lawrence*, the Justices may not have to do much heavy lifting at all. For the Court is ultimately a teacher, and by its opinions it shapes public attitudes and mores as much as, and perhaps far more than, it responds to them. Over a long period of time, a sustained judicial interest in advancing

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a particular ideological agenda has enormous effect, rivaling and even surpassing the rhetorical capacity of Presidents save in time of war or other grave national crisis. The civil rights revolution of the 1960s presents the relevant object lesson. When *Brown v. Board of Education* came down, the nation was hardly enthusiastic about school desegregation, much less the larger agenda for racial equality that would soon follow in the wake of the school decisions.

But the tenth anniversary of *Brown* saw the enactment of the Civil Rights Act of 1964 and all that it portended for the disestablishment of Jim Crow. Whether any or all of that would have happened without *Brown* is hard to say, but it seems unlikely given all that we know about massive resistance in the South and the tepid support for full black emancipation that existed in other parts of the country. The old Confederacy felt most keenly the immediate effects of federal intervention, but the rest of the nation was moved not by court or laws but by the moral instruction that lay behind them.

So when Justice Kennedy embraces a particular theory of sexual relations, and of individual autonomy generally, and incorporates it into the Constitution, those who wish to defend traditional morals legislation against judicial supremacy had best be on their guard. And make no mistake about it: what Kennedy did prompted cheers within the homosexual community and other precincts where sexual liberation is celebrated, but his opinion goes far beyond what was necessary to resolve the immediate claims in the case. He gave a kind of permission, a legal version of an apostolic benediction if you like, for people to think altogether differently not only about homosexuality as such, but about the principles of morality generally. By Justice Kennedy's reckoning, morality is understood to be an entirely private undertaking, a thesis whose premises are already deeply planted in the schools and the country at large.

The sexual revolution of the sixties and seventies, exacerbated by the instruction of *Griswold* and *Roe*, has exacted a heavy toll not only on how people behave but on how they think about moral rules. As polling data and recent election patterns abundantly confirm, we are already dividing into "red" and "blue" nations, whose defining points of distinction have everything to do with questions of religion and morality. Kennedy's opinion in *Lawrence* is another line in the sand. It decisively takes the side of the "libertarian" nation, for whom issues of religion and morality are irreducibly private matters; and by doing so, it may be seen by traditionalists as a declaration of war—one of many in these days, to be sure, but a very important one indeed, given the power of the Court to effect change. It is of course too early to tell, but it may well turn out that *Lawrence* is a blessing in disguise.

My powers of prophecy are no better than the next person's, but if I had to wager, I'd bet that the battle for public sentiment, hitherto confined (with the exception of abortion) to border skirmishes, is about to move toward a major engagement on the issue of homosexual marriage. The culture is in fact already so engaged, but most people are unaware of it unless they happen to live in Hawaii, Alaska, Vermont, Colorado, Massachusetts, or other states where the issue has already been taken up for public debate. The Supreme Court, however, has now nationalized the issue, and there will be no escaping the implications of *Lawrence*. Justice Kennedy said that his opinion in the case bore no necessary implications for homosexual marriage, or for laws governing bigamy, prostitution, or adultery. He may well mean what he says, but the problem lies not in what he does or does not intend, but in the logic of his argument. He may not personally wish to see the other sexually related laws crumble, and the Court may not in fact advance upon them, at least in the short term. The important point, however, is that there is nothing in the argument Kennedy advanced in *Lawrence* that can prevent him or his colleagues from doing so. Nor is there anything to prevent state and local judges from taking *Lawrence*'s reasoning and imposing the homosexual agenda by judicial fiat. Even as I write, the Massachusetts Supreme Court is poised to rule on the question of homosexual marriage under that state's constitution. It will more than likely rely heavily on Kennedy's rationale in *Lawrence*.

Despite what Kennedy says, there is no way to avoid the decision's larger implications, which will be all but impossible to address other than by means of a national referendum. The most promising vehicle at the moment for that purpose is the proposed marriage amendment to the Constitution. What its prospects for success may be is anyone's guess. What seems clear is that the moment for engagement has arrived.

If so, we are likely to see an argument not only about homosexual rights but about the reach of judicial supremacy and, therefore, about the right of the people to decide what kind of government they shall have. Living constitutionalism has always been prone to two fatal defects. The first is that if the most valued feature of the Constitution is its capacity to change with the times, it is far from obvious why the Supreme Court of all institutions should be vested with the authority to divine the spirit of the age. Legislatures, clearly, are better equipped for that function. For all its vaunted power, judicial supremacy exists at the sufferance of the people. As Alexis de Tocqueville noted long ago, it is as danger-

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ous for the judiciary to get too far in front of public sentiment as it is for it to lag too far behind.

The second flaw in living constitutionalism is that, if the Constitution is an endlessly changing document, it is unclear why its provisions authorizing judicial power should be considered sacred and permanent. In its aggressive assertions on behalf of a living Constitution, the Court runs the risk of undermining the principled basis of its own authority. It may find, as Professor Bickel warned long ago, that it has no ground on which to stand.

The dangers of judicial activism and living constitutionalism have for the most part been discussed only in academic and professional circles. The Court's opinion in *Lawrence*, however, may bring those dangers to the attention of a wider public in ways that could make the controversy over *Roe* seem mild by comparison. The public today is certainly more tolerant of private homosexual behavior than it has been in the past, but homosexual marriage is another issue altogether. If the public gets the sense that homosexual marriage could be imposed by judicial fiat—and Kennedy's *Lawrence* opinion clearly opens that door—it may take matters into its own hands. And if it does, the Supreme Court had better get ready to duck. FT

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Two Popes

Raymond de Souza

Twenty-five years as pope is no small thing. When John Paul II celebrates his papal jubilee this October 16, he will be only the third pope in history to have done so. So rare is the milestone that when Pius IX (1846-1878) reached it in 1871 his image was placed over the famous bronze statue of St. Peter in the Vatican Basilica with an inscription stating that he had equaled the reign of the apostle himself (pious tradition gave Peter twenty-five years as pope, though the dates are historically uncertain). His successor, Leo XIII (1878-1903), was elected at sixty-eight, with the expectation that a briefer reign might be in order. Providence surprises, and Leo died five months after he celebrated *his* own twenty-fifth anniversary. And now John Paul II.

The centenary of Leo XIII's death passed on July 20 without much fanfare, which is understandable given that the Catholic Church is preparing itself for John Paul II's own jubilee this fall. What is less understandable is that Leo XIII himself largely passes unnoticed, though his long pontificate was one of the most important of the modern period in terms of the depth and breadth of his teaching. The twenty-fifth anniversary of John Paul II is an auspicious time to look back to Leo XIII, through the prism of the current pontificate, and rediscover a remarkable line of continuity between the two popes separated by exactly a century.

The dates themselves are suggestive. Leo XIII was elected in 1878, John Paul II in 1978. But the continuities between Leo and John Paul are more than just a calendrical coincidence. The backgrounds they brought to the papacy, the challenges they faced, and the themes upon which they taught are remarkably similar. Indeed, in piety and pastoral practice, as well as in his body of teaching, Leo seems a forerunner to John Paul himself. Many of the latter's accomplishments that will be celebrated this October are the fruit of seeds planted a century ago by Leo. The importance of remembering Leo is twofold: for what he accomplished in his own right, and how he and John Paul II serve as bookends for an extraordinarily impressive century in papal history.

Leo XIII (Gioacchino Pecci), born in 1810, lived a nineteenth-century life that witnessed the first blasts of modernity against the Church. In fact, his career as a papal diplomat was cut short when the King of Belgium requested the young nuncio's removal over an education dispute. Pecci was then appointed bishop of Perugia, where he served for thirty-one years. While anticlerical storms lashed the Church all over Europe, and the *risorgimento* moved against the papacy in Italy, Pecci was a devoted diocesan bishop, with no inkling that he would be called to the See of Peter.

Most of Pecci's successors would take more traditional routes to the papacy, serving as diplomats, curial officials, or archbishops of major Italian sees. But Karol Wojtyla followed something of the Pecci route. Born in 1920, he has lived a twentieth-century life, experiencing firsthand the brutality of the modern totalitarian state. While an academic philosopher by training, he too was occupied with pastoral work, first among university students and later as Archbishop of Krakow for fifteen years. Like Pecci before him, he had ample opportunity to reflect on modernity's hostility to the Church at some distance from Rome.

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But that distance did not betray ignorance. From their own dioceses, both Pecci and Wojtyla were consulted on broad international issues and maintained an active interest in problems besetting the Church universal. Both had studied in Rome and, more important, both had the experience of an ecumenical council to broaden their solicitude for all the churches. For Pecci it was Vatican I (1869-1870); for Wojtyla it was Vatican II (1962-65).

Both Pecci and Wojtyla ascended the throne of Peter full of confidence that they knew in which direction to lead the Church. From the start, both walked lightly in the shoes of the fisherman. Neither felt obligated to slavishly follow their predecessors. While Leo XIII defended the defiance of Pius IX over the reunification of Italy and the Roman question, he struck a more hopeful tone. John Paul II affirmed all that his predecessors taught, but while an aura of despondency cloaked Paul VI's final years, John Paul began speaking of a new springtime for the faith. Both Pecci and Wojtyla had long pastoral experience upon which to ground their hopefulness. In the face of the challenges of the day, they had already tested their pastoral intuitions and thus were confident that they knew what would work for the Church universal.

When Karol Wojtyla appeared on the central loggia of St. Peter's for the first time as John Paul II, he immediately spoke of how a pope from a "faraway country" shared with the large Italian crowd before him a desire "to confess our common faith, our hope, our trust in the Mother of Christ and of the Church." Strong Marian piety is not surprising in popes, but Leo XIII and John Paul II are exceptional. Both could be called Marian popes.

Leo XIII wrote some eleven encyclicals on the rosary and decided that October would be dedicated to it. In his rosary encyclicals, Leo repeatedly recommended the Marian prayer and shared with his readers some of his own meditations. In a teaching corpus dedicated in large part to church-state problems, the rosary encyclicals give a more personal window into Leo's soul. The Marian apparitions at Lourdes in 1858 were the signal Marian event of the nineteenth century, and Leo was ardent in his devotion to Mary under that title. He established a feast of Our Lady of Lourdes for the whole Church, and built in the Vatican gardens (a refuge of great personal importance to the popes during the "prisoner in the Vatican" period) a replica of the grotto at Lourdes. In the context of his series of Marian letters, Leo XIII also wrote one on St. Joseph in 1889.

John Paul's Marian devotion is even more transparent, beginning with his motto, *Totus Tuus*. Only weeks after his election, he spoke of the rosary as his favorite prayer, and devoted a lengthy letter to the rosary on the occasion of his twenty-fourth anniversary last year. In that letter, he added five new mysteries to the rosary, and declared that his twenty-fifth anniversary year would be known as the Year of the Rosary. It was as though he wanted to prepare for his own jubilee celebrations with a worldwide renewal in Marian devotion. The Fatima apparitions were the signal Marian event of the twentieth century, and John Paul II extended the feast of Our Lady of Fatima to the universal Church. There is also a statue of Our Lady of Fatima in the Vatican gardens, but the date does not read 13 May 1917—the date of the first apparition—but instead 13 May 1981, the day of the assassination attempt in St. Peter's Square. John Paul has attributed his survival to the intercession of Our Lady of Fatima, and has visited the Portuguese shrine three times on the May 13 anniversary to give thanks. For his part, John Paul II commemorated the centenary of Leo XIII's letter on St. Joseph with one of his own in 1989.

Eucharistic piety is yet another similarity. Last spring, after treating exhaustively almost every other topic, John Paul II released an encyclical on the Eucharist. He stayed away from liturgical questions per se, choosing a more devotional approach. Leo XIII too, in his twenty-fifth year as pope, after having written encyclicals on every conceivable topic, devoted an encyclical to the Eucharist. Like John Paul II, Leo XIII avoided liturgical questions for the most part during his pontificate but wanted, at the end of his days, to rekindle eucharistic devotion. In *Mirae Caritatis* (1902), as in *Ecclesia de Eucharistia* (2003), it is an old pope who wishes to say that, notwithstanding all the many other issues pressing in upon us, we ought not forget what lies at the heart of the Church, the source of her life and the purpose of her mission.

While biography and spirituality closely link Leo XIII and John Paul II, it is in their teaching that the similarities are most obvious. Separated by a century, Leo and John Paul seem to look out at the world through the same window.

Leo wrote some eighty-five encyclicals, most of them fairly brief. The style of the time was to get more involved in practical problems, and so one finds Leo addressing himself to the spread of Asiatic cholera in Italy (*Superiore Anno*, 1884), dueling in the Germanic countries (*Pastoralis Officii*, 1891), and the government regulation of Catholic schools in Manitoba (*Affari Vos*, 1897). Nonetheless, in reading his considerable output today, it is remarkable how often one finds themes later echoed by John Paul II.

In *Caritatis* (1894), Leo addresses himself to the

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bishops of Poland, availing himself of a "delightful opportunity to congratulate the Polish nation on the glory of their ancestral faith, which lives vigorously despite so many and such difficult trials." Leo addressed many encyclicals to national hierarchies, but that he would do so to the Poles is notable, for there was no Poland on the European map in 1894. Yet Leo recognized that the Polish nation was a religious reality before it was a geopolitical one, a point that John Paul himself would make on his epic 1979 pilgrimage to Poland, declaring that "without Christ it is impossible to understand the history of Poland." John Paul's remark that Poland was a "land of particularly responsible witness" could have come from Leo.

With his eyes turned eastward, Leo XIII extended the feast of Sts. Cyril and Methodius to the whole Church (*Grande Munus*, 1880), in order to "thank the Slavic peoples and to effect a common benefit for them." In 1985, John Paul II would elevate the brother evangelists to the status of patron saints of all Europe, along with St. Benedict (*Slavorum Apostoli*).

There are other noteworthy similarities. In 1892 (*Quarto Abeunte Saeculo*), Leo XIII celebrated the fourth centenary of Columbus' voyage as the mission of a man who, "not unmoved" by human ambitions, sought above all to "open a way for the gospel over new lands and seas." Notwithstanding the temper of a more politically correct time, John Paul would celebrate the fifth centenary in exactly the same spirit.

John Paul's understanding of and affection for the United States have led some to call him, only half in jest, the first "American" pope. Leo saw the potential across the seas toward the end of his pontificate, when he wrote that while "all the nations which were Catholic for many centuries give cause for sorrow," the state of the Church in the United States "cheers our heart and fills it with delight" (*In Amplissimo*, 1902). He praises the American constitutional system for doing nothing "to restrain [the Catholic Church] in its just liberty."

Other interventions in America have a contemporary ring. In erecting the Catholic University of America (*Magni Nobis*, 1889), Leo admonished the bishops of the United States to "vigilantly superintend the preservation of the correct system of studies and the discipline of students in your academic institution." Leo tosses that off as an almost unnecessary warning; one hundred years later, John Paul would make a similar plea the cornerstone of his appeal for Catholic education (*Ex Corde Ecclesiae*, 1990).

Leo would, in preparation for the Holy Year of 1900, consecrate the whole world to the Sacred Heart of Jesus—a pious act that also had political overtones, insofar as devotion to the Sacred Heart was favored by those who rejected the secularizing ideologies regnant in northern Europe, especially France. John Paul, in preparation for the Holy Year of 2000, would entrust the whole world to the Immaculate Heart of Mary, a pious act that was replete with anti-Communist significance.

Above all, though, the principal continuity between Leo XIII and John Paul II is their defense of the person, and especially his proper liberty. It would be too much to argue that the robust Christian humanism of John Paul can be found in Leo, but Leo sets out on a path that is remarkable for his time. His most significant intuition was that the problems of the modern age were principally philosophical and anthropological in nature, so it behooved the Church to move beyond political and diplomatic disputes, as pressing as those were.

George Weigel has argued that John Paul is a "post-Constantinian" pope in that he treats culture as primary, with economics and politics as secondary. Leo's vision was not similarly "post-Constantinian"—his political theology favored altar-and-throne arrangements where possible—but he too saw, more than his predecessors, that the important battles were cultural and not political. Indeed, Leo came to a papacy shorn of its temporal power; he was the first pope in centuries to be faced with "post-Constantinian" facts. The moral authority of the twentieth-century papacy, exercising the power of the spirit and conscience rather than the raw politics of arms and alliances, is the fruit of Leo's wise reaction to the loss of the papal states.

One of his most important, and earliest, encyclicals was devoted to a renewal of philosophy under the light of St. Thomas Aquinas (*Aeterni Patris*, 1879). This was not an abstract matter; Leo recognized that the "bitter strifes of these days" were the consequence not of wicked kings or ambitious revolutionaries but of "false conclusions concerning divine and human things which have originated in the schools of philosophy." Leo was content to heap condemnations on the predations of the late-nineteenth-century European powers, but he did not think that another, better Congress of Vienna would be the solution to Europe's strife and the Church's difficulties. Leo saw that the crisis was philosophical in nature and needed the response of Christian philosophy. He could not have imagined that a Thomistic philosopher would be exactly what the Church got as pope a century later. The renewal called for in *Aeterni Patris* was an important factor in the academic formation of the young Karol Wojtyla, something testified to by his own encyclical on the role of philosophy, *Fides et Ratio* (1998).

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Central to Leo's philosophical turn were his efforts to develop a better Christian sense of the liberty of the person, especially in regard to the social order. In a series of important encyclicals on the state (*Inscrutabili*, 1878; *Diuturnum*, 1881; *Immortale Dei*, 1885), Leo took dead aim at the totalitarian impulse, insisting that all civil power was limited and that no human authority could usurp all authority in a society. To be sure, he argued for this limitation as necessary for the liberty of the Church, but Leo also argued that it was in the nature of civil society itself that authority must be limited. Leo began to sketch out a necessary zone of personal freedom.

In *Libertas* (1888), Leo ringingly endorses liberty as the "highest of natural endowments" and then treats liberty from an anthropological perspective as that gift which distinguishes man from the animals and makes him most human. In light of contemporary debates, Leo XIII wants to distinguish between the "good and evil elements" in "modern liberties," in order to show that the Church is not "hostile" to human liberty properly understood. To this end, he insists that the Church has been a friend of human liberty, not only as a necessary requirement for moral action, but also in the social sphere. "Thus, the powerful influence of the Church has ever been manifested in the custody and protection of the civil and political liberty of the people," writes Leo. Regardless of the historical merit of the claim, its importance lies in the fact that it is being made. Liberty in the civil or social sphere is not only something that Leo XIII wishes to tolerate, he is claiming that it is a good in principle, a good important enough and apparent enough that the Church has always promoted it.

The spirit of liberty runs through *Libertas* and the encyclical remains in its principal argument, if not in all its particular judgments, a paean to the possibilities of human freedom. Leo XIII's vision is one that puts human freedom at the center of social life, but a freedom strongly regulated and channeled toward the common good by public authorities. Already his argument is clear: freedom has many pitfalls, but the solution lies in freedom better governed, not in freedom eliminated. In *Rerum Novarum* (1891) he applies that principle with great force to the economic questions of the day.

Today, Leo XIII is most often studied for the encyclical that launched the modern tradition of Catholic social teaching—a teaching that reached its fullest expression in John Paul II's *Centesimus Annus* (1991), written to commemorate *Rerum Novarum*'s centenary. What is most striking about *Rerum Novarum* is that it is a labor encyclical which devotes significant energy to condemning socialism, not capitalism. Unrestrained capitalism is rejected, to be sure, but Leo inveighs much more vehemently against the spectre of socialism. The reason is that Leo, with extraordinary prescience, saw that economic freedom was necessary for political freedom writ large and that private property was necessary for economic freedom.

Leo XIII develops in two stages what might be called a workingman's defense of private property. In the first stage, he defends ownership as the invested fruit of wage labor. In the second stage, he defends ownership as an appropriate expression of the workingman's person. Taken together, Leo XIII offers much more than a practical defense of private property. He offers a personalist basis for private property that, in grounding his claim in human action or labor, establishes a strong foundation for what will later be developed into a right to economic freedom.

It is possible to see here the first reference to economic freedom in the modern tradition of Catholic social doctrine—a century before John Paul II would articulate it fully. The workingman ought to have the freedom to dispose of his wages, for upon this depends his ability to improve his material prosperity. Leo XIII advances it first as a practical argument, but he soon strengthens his claim by stating that "every man has by nature the right to possess property as his own." Such ownership is necessary for the basic sustenance of life, which belongs by nature to man's responsibility for himself, prior to any state action: "Man precedes the state, and possesses, prior to the formation of any state, the right of providing for the substance of his body."

The key argument can be summarized as follows. Man has a responsibility to provide for his material well-being, which includes both sustenance and self-improvement; this obligation also applies to adequate provision for those for whom he is responsible. This responsibility is prior to the state and so constitutes an obligation that needs to be met not through state action, but by his own action. Private property and the freedom to dispose of his property as he judges best are necessary for man to meet his responsibilities, and therefore he has a right to both. These rights are natural, must be respected by the state, and are grounded precisely in man's personal status—they are, as we would say today, human rights.

So strong is Leo XIII's defense of private property that he notes that while the earth belongs to all mankind, this principle "can in no way be a bar to the owning of private property." Subsequently, Catholic social doctrine would often use the universal destination of all goods as a brake upon the right to private property; Leo XIII here begins in the opposite fashion, warning that the universal nature of goods ought not be used to do away with private property. Michael Novak has called economic freedom the "second liber-

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ty," with religious liberty being the first. Novak's argument is that economic freedom puts limits on the power of the state over day-to-day activities, creating a zone of free initiative and action that supports all other political and legal freedoms. Economic freedom is not only important in itself, but also as an essential piece of a culture of freedom. The "first liberty" of religious freedom was far beyond Leo's vision, but he laid a secure foundation for the "second liberty." As Leo died at the dawn of the totalitarian century, that was no mean achievement.

Readers familiar with John Paul's personalist approach to work (*Laborem Exercens*, 1981), his articulation of the right to economic initiative (*Sollicitudo Rei Socialis*, 1987), and his endorsement of capitalism rightly regulated or, as he prefers to call it, the "free economy" (*Centesimus Annus*, 1991), will find nothing in Leo XIII's defense of liberty and nascent economic freedom unusual. But what is unusual is that he was doing all this one hundred years ago.

Rocco Buttiglione has written that the "general principle" that undergirds the whole teaching of John Paul II is that "nothing good can be done without freedom, but freedom is not the highest value in itself. Freedom is given to man in order to make possible the free obedience to truth and free gift of oneself in love." That could not be said about Leo, but it could be said that Leo recognized that the dangers of freedom abused could only be overcome by freedom lived in accord with the moral law. In applying this to the social order, Leo was a pioneer.

The novelty of Leo XIII is especially evident when the work of his successors is evaluated. Leo's point of departure for his social teaching was the condition of the suffering workers, and he sought remedies that would secure their dignity. While this thread is picked up in John Paul II, it was left aside for much of the interim period. Pius XI, who made a landmark contribution to Catholic social teaching (*Quadragesimo Anno*, 1931; *Divini Redemptoris*, 1937), began his social analysis with the problem of income inequality. Later, Paul VI would do the same. The result was that Catholic social teaching focused on the aggregates of social class and on income redistribution. The latter task being a state function, Catholic teaching took on a rather statist bent from the 1930s to the 1970s.

Such teaching also claimed to be rooted in the teachings of Leo XIII, but in fact its reliance on his writing was rather one-sided; it neglected the more original and penetrating contributions of Leo regarding the importance of the person at the heart of the social order. John Paul II brought to fruition these neglected aspects of Leo XIII's thought, so that one can say that Leo and John Paul share an outlook that is unique and quite different from the one espoused by intervening popes. These two streams of social teaching are not contradictory, but their emphases are clearly different. The person-centered focus of Leo and John Paul does appear today to be the more theologically rich approach.

Much papal commentary emphasizes contrasts rather than continuities. That there are contrasts is obvious enough, but in comparing Leo and John Paul, it is surely the continuities that are most striking. The various achievements of John Paul will be celebrated this month, and justly so. It would also be just to spare a thought in the midst of those festivities for John Paul's nineteenth-century predecessor—might one say model?—whose impressive twenty-five years as pope have found an echo in the twenty-five years now being celebrated FT

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War, Peace & Jean Bethke Elshtain

An Exchange

Stanley Hauerwas and Paul J. Griffiths

Jean Bethke Elshtain is rightly admired for her courage, for her trenchant critiques of peculiarly American pathologies, and for the wisdom of her political judgment. We think, however, that her current attempt morally to justify the Bush presidency's "war against terrorism" along with its entire National Security Strategy—in *Just War Against Terror: The Burden of American Power in a Violent World* (Basic, 2003)—is nothing more than an uncritical justification of the ideology of America as empire. It is itself a deeply ideological work rather than one of careful and critical thought.

Elshtain's argument presents itself as an answer to the question, "What is America's special burden in light of its extraordinary power?" It's a good question. American military and economic preeminence has no parallel in modern times, and perhaps none at any time. Since 1989, the U.S. has been the only superpower, and the distance between its military capacity and that of its nearest rivals is now such that it is no longer realistic to think that any nation or coalition of nations can offer it a direct military challenge. This may change if the European Union mirrors its growing economic unity with an equivalent political unity; but that, if it happens at all, is a generation or two away, and in the meantime Elshtain's question remains a pressing one.

Elshtain's answer to the question is straightforward enough. First, she says, America ought to defend itself against attack by interdicting and punishing aggressors, and by using lethal force to do so where necessary. Second, when America perceives itself threatened but not (yet) attacked, it should do whatever is necessary to prevent such threat from turning into attack, up to and including the use of lethal preemptive force. Third, when America judges that a state has failed or is failing, it should intervene by practicing a new imperialism of the sort recommended by Michael Ignatieff and Sebastian Mallaby. This new imperialism involves a "form of nation-building that is primarily concerned with a new version of deterrence."

Put more bluntly: when America sees states organized on principles it doesn't like (this is what Elshtain means by "failed states") it should remake them by force (if necessary) into states organized on principles it does like. These principles will be those of rights-based democracies with free economies—that is, countries like the United States. This new imperialism means that the more a state diverges from American principles, the more pressing will be America's duty to remake it in its own image. This is a heavy burden to bear, for a moment's thought shows that a high proportion of the world's states diverge deeply and systematically from American principles. If Elshtain's program were followed, perhaps thirty or so invasions and nation-buildings on the Iraqi model would be immediately required.

So much for Elshtain's position. Kipling thought the white man's burden heavy; on Elshtain's view America's similar burden is immeasurably heavier. Elshtain advocates calling things by their right names and thinking with precision and care. She says that "there is no substitute for the facts. If we get our descriptions of events wrong, our analyses and our ethics will be wrong too." This suggests that description is one thing and moral evaluation another — a classic instance of distinguishing between fact and value. But then she also says

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that moral evaluation is embedded in the very act of description itself, noting that "any description of an evil act as good is false to the facts." She wants to have her cake and eat it too. She does this, we think, because on the one hand she needs to convince her readers that her descriptions of events are morally pellucid: that they are obvious, unobjectionable, and to be disagreed with only by the confused or the fanatical. But on the other hand, she needs to give her descriptions moral weight. Hence the soft-shoe shuffle between accurate description and moral evaluation. But this is not careful thought. It is confusion.

What Elshtain in fact offers—as she must—is a description of the world already committed to a set of moral values and not separable from those values. Her values are almost entirely in accord with those of the Bush Administration's National Security Strategy. The truth of these values is not obvious; neither is the accuracy of the descriptions that accompany them. Elshtain's claims to the contrary are the principal evidence that her work is ideology masquerading as dispassionate analysis. The masquerade is one problem, and the ideology another. We'll focus on what's wrong with the ideology.

First, Elshtain's ideology reproduces that of its opponents. Her argument is a foil to that of its demonic other, the terrorist, the Islamist, the Islamic fundamentalist, of whom Osama bin Laden serves as the paradigm and archetype. Her Americanism glows throughout as the dangerously radiant mirror image of bin Laden's "ideological fanaticism" (her words, often used). As Elshtain sees it, bin Laden and America can see each other only as threats to be removed: if, from bin Laden's point of view, America endures, he and his like will cease to be; and if, from Elshtain's Americanist viewpoint, fundamentalist Islam endures, she and her like will cease to be. "Islamist fanatics," she says, "tell themselves that the infidel is a lower order of being and a menace, and they are doing a good deed by eliminating a threat to the purity of their faith." And it is clear that some of them do. But Elshtain's response is exactly symmetrical: "One fights back," she says, "against those who have declared you a mortal enemy unfit to share our beautiful earth"—which could be a sentence lifted from an al-Qaeda training manual. Elshtain's advocacy of the demonic other's elimination via a new imperialism is no more nuanced and just as fevered as the demonic other's advocacy of her elimination. This is not careful thought and accurate description.

What would lift Elshtain's argument to a higher level? Thoughtful attention to the grammar of its own moral assumptions, and to their potential difficulties. Since Elshtain does not provide this, we'll sketch it for her. Her most fundamental assumption is that rights-based, market-ordered democracy ("America" for short) is superior to every other form of political order. Elshtain's inability to think about this assumption is evident in at least two ways. First, there is her repeated tendency to describe the actual America in such a way as to minimize its failings and to maximize those of its principal rivals, especially those states ordered around Islamic law. Second, there is her repeated attribution of those American failings she does acknowledge to the actual America rather than to the ideal America, a move she does not make in her characterization of the failings of Islamic states, whose failings are represented as intrinsic to them.

In this book (as opposed to much of her other work, which stands in dramatic contrast), Elshtain describes America in the most favorable light possible. It promotes equality and justice for women; it raises the living standards of its entire population; it is a beacon of hope for the poor and oppressed of the world; and it seeks to promote democracy and freedom throughout the world. When she does mention flaws—difficulties about race, excessive economic inequality, remaining inequities in the treatment given to women—she depicts them as incidental, flaws that will be overcome with time as the ideal America, the America of the Constitution and the Bill of Rights, realizes itself more and more fully. The trajectory is upward; the narrative is one of progress. Like the New Jerusalem, Elshtain's ideal America is without spot or blemish, and the imperfections found on the former's face will be smoothed away with time.

Such a depiction is either mendacious or culpably blind. A fuller picture would show that America has come to interpret its own Constitution in such a way as to make it impossible to limit by law the slaughter of more than a million unborn babies each year; it would not shrink from entertaining the possibility that the American experiment with constitutional separation of church and state has been deeply destructive to the serious practice of Christianity, as of every other religion; it would note that America now imprisons more than two million of its citizens, a significantly higher proportion than that of all but a few nations; it would discuss the fact that more people die by violence each year in every large American city than in many war zones; and it would give serious thought to the possibility that the now (and perhaps always) inextricable link between democracy and the market makes it exceedingly difficult for any American to think of himself as anything other than most fundamentally a consumer. The American polity, it is at least arguable, is one in which the value of

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individual choice has become paramount: (almost) anything may be chosen, (almost) anything advocated, and (almost) anything bought and sold.

The significance of these features of America can certainly be debated. But Elshtain offers no argument. These features of America are simply absent from her depiction of the state into whose image all other states should ideally be made. This absence is a deep intellectual and moral failing—and clear evidence that what Elshtain offers is cheerleading decked out as analysis. If she really wants to argue that America should export itself by force, she should pay close and careful attention to what is being exported. She does not. And because she does not, her answer to the question about the burden of American power cannot be taken seriously. It remains on the same intellectual level as the polemic of her Islamist mirror images.

The more moderate among critics of America (Muslim and otherwise) show a proper hesitation about accepting the whole American package. And yet the whole package—the benefits extolled by Elshtain and the miseries catalogued above—is what would be exported were the new imperialism given free rein. How can this reasonably be ignored?

When it comes to Elshtain's attempt to link American imperialism to the Christian just war tradition the results are, in our view, no less disappointing. Indeed, she shows no evidence of having thought about the theological assumptions and implications of what she argues.

Consider first her attempt to use just war criteria to justify Bush's "war on terrorism." She does not ask herself whether the description "war on terrorism" makes sense within the tradition to which she appeals. She rightly argues that those who kill themselves in attacks on civilians are not martyrs but murderers, but she fails to draw the obvious conclusion that you do not go to "war" against murderers. Instead, you try to arrest them. It's at least arguable (Paul Ramsey so argued) that the just war criteria are best understood historically as attempts to rationalize and constrain the police power of the state. Elshtain seems to believe that the only thing these criteria are good for is thinking about whether to send the gunboats in.

We also find dubious her attempts to tell Christians how they should think about American power. She assumes (at least there is no evidence to the contrary in her book) that there is little or no distinction between the way Christians and Americans should think about the "war on terrorism." In her book's introduction she observes that the war against German fascism and Japanese militarism put America into the world to stay. Accordingly we, meaning the American "we," cannot let terrorists make "us" withdraw from our responsibility to remake the world in our own image. This is a claim implicitly extended to American Christians, apparently just because they are Americans.

It is not a claim that we accept, any more than we accept the assertion that what's wrong with Islam is that it doesn't accept the separation between church and state—itself an odd criticism to the extent that many of Elshtain's conservative allies, and she herself elsewhere, worry rightly that the phrase "separation of church and state" fails to do justice to the complex relation between church and state contained in First Amendment jurisprudence. Equally problematic is her claim that Christianity has never been a law-based religion committed to recommending to all societies a comprehensive good. This, we suspect, would be surprising news to one of Elshtain's heroes, Pope John Paul II.

Elshtain also appears to assume that just war thinking is compatible with a realist foreign policy. She celebrates Reinhold Niebuhr's "realism," which justified American Christianity's willingness to go to war on the grounds that it was a lesser evil than refusing to fight. But she owes us an account of why she does not think, as Niebuhr himself did, that, in order to contemplate going to war, Christians had to become somewhat less than true Christians—that is, followers of Jesus Christ. She criticizes all utopian ambitions for politics that suggest Christians enter politics primarily to restrain evil; but this means that she should say why she abandons John Paul II's insistence that politics is always about the common good. With Niebuhr, she thinks pacifism justified as long as pacifists withdraw from the world, but she does not consider that nonviolence may be one of the ways Christians have been given to resist evil.

The assumption underlying all of this is that good Christians simply accept the American solution to the church-state question and to the complexities of how best to advocate Christian teaching in a pluralist society. But as Elshtain knows perfectly well, not all Christians do (these two don't, for different reasons and in different ways), and her elision of the boundary between the category "Christian" and the category "American" is another feature of the book's grammar never explicitly addressed or shown for what it is. At times she makes distinctions that suggest the beginnings of thought about it: she is, for instance, very critical of nongovernmental organizations for what she calls their utopian border crossings, but she exempts from these criticisms "religious institutions and organizations," who have been "border crossers for centuries." But why is such an exemption justified? Perhaps because the refusal of the Church to be determined by national boundaries and national iden-

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tities is among its defining characteristics—but further to explore this would require of Elshtain serious thought about what Christian thought and Christian institutions have to contribute to the world's present difficulties, and that is something she is not prepared to provide.

In the end, the use of Christian language and ideas in this book is nothing more than window-dressing for a passion to impose America upon the world. It is not a book whose argument should convince Christians; it is not a book whose argument should convince anyone thoughtful; it is a book—and here, out of respect for its author, we do not mince words—informed by jingoistic dreams of empire. Clarity about Elshtain's question, the question of the burden of American power, can only be had if clarity is gained about America. That clarity has both a theological and an empirical aspect. Neither is present in this book.

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Jean Bethke Elshtain

When confronted by a review so tendentious and unfair, it is hard to know where to begin a response. I am accused of having become an apologist for Empire; for unrestrained capitalism; for all things American, including abortion, throwing people in jail, and so on. I am also indicted for observing (and ignoring) a fact/value distinction. At the risk of mirroring the arbitrariness of the charges that Professors Hauerwas and Griffiths make against me, I will begin with a brief comment on the epistemological point.

As readers of my work are well aware, I have challenged positivist epistemologies lodged in a fact/value dichotomy for over a quarter century. *Just War Against Terror* is faithful to my commitment to a hermeneutic strategy in which our descriptions "secrete" (philosopher Charles Taylor's term) moral evaluations. One of my examples is to contrast those who saw in the slaughter of innocents on September 11, 2001 a good day's work and even chortled about it—in which case moral evaluation is blunted—and those, like Pope John Paul II, who described what happened on that awful day as an "unspeakable horror," a description that exudes a potent moral evaluation. (September 11, it should be noted, provided the historical, political, and rhetorical occasion for the writing of my book, yet in the Hauerwas/Griffiths critique the events of that day are notable by their absence, save for the risible suggestion that we should have sent out a posse to arrest Osama bin Laden for murder.) Hauerwas and Griffiths offer no evidence that I both assume and deny a distinction between facts and values. I leave it to fair-minded readers to decide for themselves.

On the more substantive issue of America and its sins, the authors know perfectly well that I have for years criticized the weaknesses of American society. But my critiques of American society and culture have always turned on a critical comparison of American practices and American principles. I have criticized our practices, from the founding sin of slavery, through the civic incapacitation of women, de jure segregation, and all the rest, in light of those principles. In my current book, I remind readers that our great dissidents have been able to use our founding principles to defeat practices that violated those principles. I conclude that "in a decent polity, our prejudices should be challenged rather than reinforced by our principles."

In responsibly judging American society one is obliged to note that it is premised on the moral equality of all persons; the separation of church and state; a civic law applying to all (meaning, among other things, that not all sins are crimes); the emancipation of women based on the moral equality articulated in the Declaration of Independence; and, since *Brown v. Board of Education* and a slew of subsequent laws and decisions, the promise of racial justice. All of this is devoutly to be preferred by any reasonably decent human being to the alternative of an oppressive, even totalitarian theocracy.

What is disturbing and destructive about Hauerwas and Griffiths' moral equation of bin Ladenism with Americanism is that it pulls the rug out from under current efforts by thousands of devout Muslims to achieve in their own societies the minimal basic freedoms that are our civic inheritence. These Muslims deserve our support rather than patronizing put-downs for desiring a rights-based society. Do Hauerwas and Griffiths really mean to deny that the men and women in the Muslim-majority Arab world would be better off if their societies became more respectful of fundamental human rights? To presume that "other societies" are not suited to a rights-based polity is to insist, in effect, that their human dignity doesn't count for as much as our own. It is also to deny the line of logic Pope John Paul II has laid down in his articulation of the connection between the dignity of the person and basic human rights.

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Hauerwas and Griffiths are determined to distort what I say and to deny, in effect, the right of a country to defend itself against attack. They quote a sentence from me that they claim "could be a sentence from an al-Qaeda training manual." An al-Qaeda training manual talking about the need to "share our beautiful earth" with others? That seems highly improbable. I argue that we must resist any ideology that declares whole categories of persons targets for elimination—whether kulaks, or Jews, or Muslims, or, yes, Americans. To claim a right of self-defense against those who would destroy you is quite different from calling for the outright murder of all Americans anywhere you can find them, as does Osama bin-Laden in his several fatwas. I challenge Hauerwas and Griffiths to produce any shred of evidence that I believe all persons—all noncombatants—of any group should be destroyed. Over and over again, I indicate that against an unrestrained ideology of terror, one must practice restraint. Just war restraint and indiscriminate slaughter belong to different moral and political universes. The sleight of hand Hauerwas and Griffiths deploy to collapse my argument into bin Laden's does mimic something: the tried and true techniques of propagandists everywhere.

Hauerwas and Griffiths insist that I believe America "ought to defend itself against attack by interdicting and punishing aggressors" whenever the country deems it necessary. They associate my argument with blanket approval of preemption. They claim that I believe America can arbitrarily assess when a state has failed and move to install an American-style democracy whenever it feels like it—that, in other words, we can and should remake the world in our image. They associate my argument with the old "white man's burden." All of these charges are false and calumnious. The calumny is to link my discussion to imperialist racism. The falsehood derives from the fact that Hauerwas and Griffiths ignore the principle under which I articulate the requirements of "love of neighbor," which is founded on equal moral regard for all persons. To the authors, what is at stake isn't human lives and stopping murder but rather the imposition of a market-model democracy on the world—despite the fact that so much of the world diverges "deeply and systematically from American principles."

No doubt much of the world does diverge from those principles. Perhaps my critics have in mind recent developments in Liberia, where drugged and drunk child "soldiers" terrorized the population. Liberia under Charles Taylor diverged quite dramatically and systematically from respect for, and protection of, fundamental human rights. Perhaps that is why the citizens of Monrovia longed for America to intervene. Such interventions—to stop the violence—are precisely what I advocate and Hauerwas and Griffiths well know it.

Nowhere do I call for the importation of American culture wholesale—as if that could be done. Nowhere do Hauerwas and Griffiths note that I mention forceful interdiction in the context of stopping violence. Nowhere do they indicate that my discussion falls under the heading "Defending Human Dignity," animated by a principle of "equal moral regard" for all persons. Nowhere do they acknowledge that my primary concern is to stop the slaughter of innocents. Nowhere do they cite my words: "The most exigent matter before the international community is bringing about the minimal civic peace in all polities necessary to attain and secure fundamental human goods, beginning with basic justice." Nowhere do they tell the reader that my discussion of failed states emerges in tandem with my treatment of violence and genocide. I make it clear that the United States cannot simply declare a state "failed" and move in. There are recognizable criteria for failed states, the most obvious being random, arbitrary, brutal violence.

Hauerwas and Griffiths are remarkably unconcerned with the tens of thousands of lives being lost to violence—to ethnic cleansing, to the brutality of dictatorial regimes, to actual genocide as in Rwanda when the world stood by and did nothing—and America's singular capacity, and thus unique responsibility, to stop the slaughter. Only if the violence is stopped can the people of those nations begin to build decent civil societies.

Hauerwas and Griffiths devote the bulk of their prosecutorial case to what, in their view, would lift my argument above the level of an al-Qaeda training manual. Since, they note, I do not provide any articulation of "the grammar" of my own "moral assumptions," they feel called upon to do it for me. Thanks very much, gentlemen, but I think I'm capable of mounting arguments on my own. Here are a few additional ones.

They claim that I maximize the failings of states governed by strict Islamic law. Here the best testimonies are from those who have suffered under such repressive regimes and who have risked their lives to oppose them. Such testimony exists in abundance for any fair-minded reader to take up.

They claim I see America as the New Jerusalem "without spot or blemish." My argument is, rather, that the American story is one in which dissidents—see Frederick Douglass, Elizabeth Cady Stanton, Martin Luther King—use principles embedded in the Declaration of Independence, the Constitution, and Lincoln's great speeches, among others, to fight against unjust practices. You cannot follow such a strategy in a repres-

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sive theocracy because the principles are the problem, not the solution.

They say I present "cheerleading decked out as analysis." It is preposterous for Hauerwas/Griffiths to ascribe to me unconcern about a range of cultural issues I have over the years addressed in my work. I refer the reader to my discussion of abortion and economic inequity in *Who Are We? Critical Reflections and Hopeful Possibilities* (2000). Those criticisms remain intact. You cannot do everything in a single book. Hauerwas/Griffiths know that. This is a book about war and what is at stake in fighting Islamism. That is its appropriate focus.

Given that all Christian denominations, including the Catholic Church, accept separation of church and state and—here see John Paul II's *Centesimus Annus*—the insistence that democratic civil society is the political form that best speaks to the dignity of the human person, Hauerwas and Griffiths' position is clearly extreme. Had I been writing a book about separation of church and state, I would have gone into its complexities. Here I will simply note that separation of church and state does not entail the withdrawal of religion from civil society, *pace* the view of extreme separationists.

There seems to be real confusion involved in Hauerwas and Griffiths' claim that if I criticize "all utopian ambitions for politics that suggest Christians enter politics primarily to restrain evil," I should then explain why I abandon John Paul II's insistence "that politics is always about the common good." The utopian ambitions for politics I criticize are those that go far beyond either restraining evil or searching for the common good, and instead aim to bring the Eschaton within reach in earthly time. In any case, why do Hauerwas and Griffiths drive a wedge between restraining evil and promoting the common good? Surely these can and should go together.

Finally, Hauerwas and Griffiths insist that I collapse Americanism and Christianity. This is patently false. In my discussion of why such noted civic republicans as Jean-Jacques Rousseau rated Christianity an inferior civic religion, I point out that they condemn Christianity primarily for what I take to be one of its great virtues—namely, that it does put people at odds with themselves. Rousseau, interestingly, endorses the system of Muhammad, as he calls it, because it fuses religious and political power. Rousseau doesn't want us to be in conflict with ourselves. He wants all forms of power and authority fused into one overarching structure. By contrast, I insist that all Christians must constantly sort out what citizenship requires or demands and what their profession of faith requires or demands. To assume that there will always be a neat fit between them is to assume far too much. No Christian should desire a fusion of religious and political power, for such is an invitation to idolatry.

What is stunning by its omission in the Hauerwas/Griffiths' diatribe is any sustained discussion of either *jus ad bellum* or *jus in bello* criteria. My book revolves around the just war tradition and the loss—a devastating one, I believe—to the American Christian community of that tradition, as the many statements issued by denominations about the war against terrorism make clear. It is particularly painful to be accused of using Christianity in order to impose "America upon the world," and for respected colleagues to go so far as to warn Christians, indeed, "anyone thoughtful," away from my writing. I, by contrast, believe Christians can take it—can make up their minds for themselves and don't need to be told what they should or should not take seriously. Were I indeed guilty as charged, it strikes me as improbable that Francis Cardinal George of Chicago would endorse my book, the text of which he read in full, with these words: "Jean Bethke Elshtain shows clearly and persuasively how 'just war' teaching meets both the imperative of peace and the responsibility a government has to defend its people. *Just War Against Terror* challenges Christian theologians and preachers to apply theological discernment more rigorously and realistically when they reflect on terrorism, and at the same time faults the academy's reaction to counter-terrorism as evasive and simplistic. Speaking vividly and directly to the moral decisions America is making, Elshtain provides a service to us."

On another recent occasion, Cardinal George noted in reference to America's radical critics that you "cannot effectively criticize what you loathe." Perhaps this loathing explains the sour tone of the Hauerwas and Griffiths collaboration. Looking out at a world filled with violence and oppression, they have nothing to offer their fellow citizens but denunciations of their own society. The crude message of this screed suggests to Americans that they are essentially deluded by their leaders, even as it simplistically indicates to the Christians among them that in finding something worth defending in their society they are thereby being untrue to the demands of their faith.

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Christ and Nothing

David B. Hart

As modern men and women—to the degree that we are modern—we believe in nothing. This is not to say, I hasten to add, that we do not believe in anything; I mean, rather, that we hold an unshakable, if often unconscious, faith in *the* nothing, or in nothingness as such. It is this in which we place our trust, upon which we venture our souls, and onto which we project the values by which we measure the meaningfulness of our lives. Or, to phrase the matter more simply and starkly, our religion is one of very comfortable nihilism.

This may seem a somewhat apocalyptic note to sound, at least without any warning or emollient prelude, but I believe I am saying nothing not almost tediously obvious. We live in an age whose chief moral value has been determined, by overwhelming consensus, to be the absolute liberty of personal volition, the power of each of us to choose what he or she believes, wants, needs, or must possess; our culturally most persuasive models of human freedom are unambiguously voluntarist and, in a rather debased and degraded way, Promethean; the will, we believe, is sovereign because unpremised, free because spontaneous, and this is the highest good. And a society that believes this must, at least implicitly, embrace and subtly advocate a very particular moral metaphysics: the unreality of any "value" higher than choice, or of any transcendent Good ordering desire towards a higher end. Desire is free to propose, seize, accept or reject, want or not want—but not to obey. Society must thus be secured against the intrusions of the Good, or of God, so that its citizens may determine their own lives by the choices they make from a universe of morally indifferent but variably desirable ends, unencumbered by any prior grammar of obligation or value (in America, we call this the "wall of separation"). Hence the liberties that permit one to purchase lavender bed clothes, to gaze fervently at pornography, to become a Unitarian, to market popular celebrations of brutal violence, or to destroy one's unborn child are all equally intrinsically "good" because all are expressions of an inalienable freedom of choice. But, of course, if the will determines itself only in and through such choices, free from any prevenient natural order, then it too is in itself nothing. And so, at the end of modernity, each of us who is true to the times stands facing not God, or the gods, or the Good beyond beings, but an abyss, over which presides the empty, inviolable authority of the individual will, whose impulses and decisions are their own moral index.

This is not to say that—sentimental barbarians that we are—we do not still invite moral and religious constraints upon our actions; none but the most demonic, demented, or adolescent among us genuinely desires to live in a world purged of visible boundaries and hospitable shelters. Thus this man may elect not to buy a particular vehicle because he considers himself an environmentalist; or this woman may choose not to have an abortion midway through her second trimester, because the fetus, at that point in its gestation, seems to her too fully formed, and she—personally—would feel wrong about terminating "it." But this merely illustrates my point: we take as given the individual's right not merely to obey or defy the moral law, but to

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choose which moral standards to adopt, which values to uphold, which fashion of piety to wear and with what accessories.

Even our ethics are achievements of will. And the same is true of those custom-fitted spiritualities—"New Age," occult, pantheist, "Wiccan," or what have you—by which many of us now divert ourselves from the quotidien dreariness of our lives. These gods of the boutique can come from anywhere—native North American religion, the Indian subcontinent, some Pre-Raphaelite grove shrouded in Celtic twilight, cunning purveyors of otherwise worthless quartz, pages drawn at random from Robert Graves, Aldous Huxley, Carl Jung, or that redoubtable old Aryan, Joseph Campbell—but where such gods inevitably come to rest are not so much divine hierarchies as ornamental *étagères*, where their principal office is to provide symbolic representations of the dreamier sides of their votaries' personalities. The triviality of this sort of devotion, its want of dogma or discipline, its tendency to find its divinities not in glades and grottoes but in gift shops make it obvious that this is no reversion to pre-Christian polytheism. It is, rather, a thoroughly modern religion, whose burlesque gods command neither reverence, nor dread, nor love, nor belief; they are no more than the masks worn by that same spontaneity of will that is the one unrivalled demiurge who rules this age and alone bids its spirits come and go.

Which brings me at last to my topic. "I am the Lord thy God," says the First Commandment, "Thou shalt have no other gods before me." For Israel this was first and foremost a demand of fidelity, by which God bound His people to Himself, even if in later years it became also a proclamation to the nations. To Christians, however, the commandment came through—and so was indissolubly bound to—Christ. As such, it was not simply a prohibition of foreign cults, but a call to arms, an assault upon the antique order of the heavens—a declaration of war upon the gods. All the world was to be evangelized and baptized, all idols torn down, all worship given over to the one God who, in these latter days, had sent His Son into the world for our salvation. It was a long and sometimes terrible conflict, occasionally exacting a fearful price in martyrs' blood, but it was, by any just estimate, a victory: the temples of Zeus and Isis alike were finally deserted, both the paean and the dithyramb ceased to be sung, altars were bereft of their sacrifices, the sibyls fell silent, and ultimately all the glory, nobility, and cruelty of the ancient world lay supine at the feet of Christ the conqueror.

Nor, for early Christians, was this mere metaphor. When a gentile convert stood in the baptistery on Easter's eve and, before descending naked into the waters, turned to the West to renounce the devil and the devil's ministers, he was rejecting, and in fact reviling, the gods in bondage to whom he had languished all his life; and when he turned to the East to confess Christ, he was entrusting himself to the invincible hero who had plundered hell of its captives, overthrown death, subdued the powers of the air, and been raised the Lord of history. Life, for the early Church, was spiritual warfare; and no baptized Christian could doubt how great a transformation—of the self and the world—it was to consent to serve no other god than Him whom Christ revealed.

We are still at war, of course, but the situation of the Church has materially altered, and I suspect that, by comparison to the burden the First Commandment lays upon us today, the defeat of the ancient pantheon, and the elemental spirits, and the demons lurking behind them will prove to have been sublimely easy. For, as I say, we moderns believe in nothing: the nothingness of the will miraculously giving itself form by mastering the nothingness of the world. The gods, at least, were real, if distorted, intimations of the *mysterium tremendum*, and so could inspire something like holy dread or, occasionally, holy love. They were brutes, obviously, but often also benign despots, and all of us I think, in those secret corners of our souls where we are all monarchists, can appreciate a good despot, if he is sufficiently dashing and mysterious, and able to strike an attractive balance between capricious wrath and serene benevolence. Certainly the Olympians had panache, and a terrible beauty whose disappearance from the world was a bereavement to obdurately devout pagans. Moreover, in their very objectivity and supremacy over their worshipers, the gods gave the Church enemies with whom it could come to grips. Perhaps they were just so many gaudy veils and ornate brocades drawn across the abyss of night, death, and nature, but they had distinct shapes and established cults, and when their mysteries were abandoned, so were they.

How, though, to make war on nothingness, on the abyss itself, denuded of its mythic allure? It seems to me much easier to convince a man that he is in thrall to demons and offer him manumission than to convince him that he is a slave to himself and prisoner to his own will. Here is a god more elusive, protean, and indomitable than either Apollo or Dionysus; and whether he manifests himself in some demonic titanism of the will, like the mass delirium of the Third Reich, or simply in the mesmeric banality of consumer culture, his throne has been set in the very hearts of those he enslaves. And it is this god, I think, against whom the First Commandment calls us now to struggle.

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There is, however, a complication even to this. As Christians, we are glad to assert that the commandment to have no other god, when allied to the gospel, liberated us from the divine ancien régime; or that this same commandment must be proclaimed again if modern persons are to be rescued from the superstitions of our age. But there is another, more uncomfortable assertion we should also be willing to make: that humanity could not have passed from the devotions of antiquity to those of modernity but for the force of Christianity in history, and so—as a matter of historical fact—Christianity, with its cry of "no other god," is in part responsible for the nihilism of our culture. The gospel shook the ancient world to its foundations, indeed tore down the heavens, and so helped to bring us to the ruin of the present moment.

The word "nihilism" has a complex history in modern philosophy, but I use it in a sense largely determined by Nietzsche and Heidegger, both of whom not only diagnosed modernity as nihilism, but saw Christianity as complicit in its genesis; both it seems to me were penetratingly correct in some respects, if disastrously wrong in most, and both raised questions that we Christians ignore at our peril. Nietzsche's case is the cruder of the two, if in some ways the more perspicacious; for him, modernity is simply the final phase of the disease called Christianity. Whereas the genius of the Greeks—so his story goes—was to gaze without illusion into the chaos and terror of the world, and respond not with fear or resignation but with affirmation and supreme artistry, they were able to do this only on account of their nobility, which means their ruthless willingness to discriminate between the "good"—that is, the strength, exuberance, bravery, generosity, and harshness of the aristocratic spirit—and the "bad"—the weakness, debility, timorousness, and vindictive resentfulness of the slavish mind. And this same standard—"noble wisdom," for want of a better term—was the foundation and mortar of Roman civilization.

Christianity, however, was a slave revolt in morality: the cunning of the weak triumphed over the nobility of the strong, the resentment of the many converted the pride of the few into self-torturing guilt, the higher man's distinction between the good and the bad was replaced by the lesser man's spiteful distinction between good and "evil," and the tragic wisdom of the Greeks sank beneath the flood of Christianity's pity and pusillanimity. This revolt, joined to an ascetic and sterile devotion to positive fact, would ultimately slay even God. And, as a result, we have now entered the age of the Last Men, whom Nietzsche depicts in terms too close for comfort to the banality, conformity, and self-indulgence of modern mass culture.

Heidegger's tale is not as catastrophist, and so emphasizes less Christianity's novelty than its continuity with a nihilism implicit in all Western thought, from at least the time of Plato (which Nietzsche, in his way, also acknowledged). Nihilism, says Heidegger, is born in a forgetfulness of the mystery of being, and in the attempt to capture and master being in artifacts of reason (the chief example—and indeed the prototype of every subsequent apostasy from true "ontology"—being Plato's ideas). Scandalously to oversimplify his argument, it is, says Heidegger, the history of this nihilistic impulse to reduce being to an object of the intellect, subject to the will, that has brought us at last to the age of technology, for which reality is just so many quanta of power, the world a representation of consciousness, and the earth a mere reserve awaiting exploitation; technological mastery has become our highest ideal, and our only real model of truth. Christianity, for its part, is not so much a new thing as a prolonged episode within the greater history of nihilism, notable chiefly for having brought part of this history's logic to its consummation by having invented the metaphysical God, the form of all forms, who grounds all of being in himself as absolute efficient cause, and who personifies that cause as total power and will. From this God, in the fullness of time, would be born the modern subject who has usurped God's place.

I hope I will be excused both for so cursory a précis and for the mild perversity that causes me to see some merit in both of these stories. Heidegger seems to me obviously correct in regarding modernity's nihilism as the fruition of seeds sown in pagan soil; and Nietzsche also correct to call attention to Christianity's shocking—and, for the antique order of noble values, irreparably catastrophic—novelty; but neither grasped why he was correct. For indeed Christianity was complicit in the death of antiquity and in the birth of modernity, not because it was an accomplice of the latter, but because it alone, in the history of the West, was a rejection of and alternative to nihilism's despair, violence, and idolatry of power; as such, Christianity shattered the imposing and enchanting façade behind which nihilism once hid, and thereby, inadvertently, called it forth into the open.

I am speaking (impressionistically, I grant) of something pervasive in the ethos of European antiquity, which I would call a kind of glorious sadness. The great Indo-European mythos, from which Western culture sprang, was chiefly one of sacrifice: it understood the cosmos as a closed system, a finite totality, within which gods and mortals alike occupied places determined by fate. And this totality was, of necessity, an economy, a cycle of creation and destruction, oscillating between order and chaos, form and indeterminacy:

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a great circle of feeding, preserving life through a system of transactions with death. This is the myth of "cosmos"—of the universe as a precarious equilibrium of contrary forces—which undergirded a sacral practice whose aim was to contain nature's promiscuous violence within religion's orderly violence. The terrible dynamism of nature had to be both resisted and controlled by rites at once apotropaic—appeasing chaos and rationalizing it within the stability of cult—and economic—recuperating its sacrificial expenditures in the form of divine favor, a numinous power reinforcing the regime that sacrifice served. And this regime was, naturally, a fixed hierarchy of social power, atop which stood the gods, a little lower kings and nobles, and at the bottom slaves; the order of society, both divine and natural in provenance, was a fixed and yet somehow fragile "hierarchy within totality" that had to be preserved against the forces that surrounded it, while yet drawing on those forces for its spiritual sustenance. Gods and mortals were bound together by necessity; we fed the gods, who required our sacrifices, and they preserved us from the forces they personified and granted us some measure of their power. There was, surely, an ineradicable nihilism in such an economy: a tragic resignation before fate, followed by a prudential act of cultic salvage, for the sake of social and cosmic stability.

As it happens, the word "tragic" is especially apt here. A sacrificial mythos need not always express itself in slaughter, after all. Attic tragedy, for instance, began as a sacrificial rite. It was performed during the festival of Dionysus, which was a fertility festival, of course, but only because it was also an apotropaic celebration of delirium and death: the Dionysia was a sacred negotiation with the wild, antinomian cruelty of the god whose violent orgiastic cult had once, so it was believed, gravely imperiled the city; and the hope that prompted the feast was that, if this devastating force could be contained within bright Apollonian forms and propitiated through a ritual carnival of controlled disorder, the polis could survive for another year, its precarious peace intact.

The religious vision from which Attic tragedy emerged was one of the human community as a kind of besieged citadel preserving itself through the tribute it paid to the powers that both threatened and enlivened it. I can think of no better example of this than that of *Antigone*, in which the tragic crisis is the result of an insoluble moral conflict between familial piety (a sacred obligation) and the civil duties of kingship (a holy office): Antigone, as a woman, is bound to the chthonian gods (gods of the dead, so of family and household), and Creon, as king, is bound to Apollo (god of the city), and so both are adhering to sacred obligations. The conflict between them, then, far from involving a tension between the profane and the holy, is a conflict within the divine itself, whose only possible resolution is the death—the sacrifice—of the protagonist. Other examples, however, are legion. Necessity's cruel intransigence rules the gods no less than us; tragedy's great power is simply to reconcile us to this truth, to what must be, and to the violences of the city that keep at bay the greater violence of cosmic or social disorder.

Nor does one require extraordinarily penetrating insight to see how the shadow of this mythos falls across the philosophical schools of antiquity. To risk a generalization even more reckless than those I have already made: from the time of the pre-Socratics, all the great speculative and moral systems of the pagan world were, in varying degrees, confined to this totality, to either its innermost mechanisms or outermost boundaries; rarely did any of them catch even a glimpse of what might lie beyond such a world; and none could conceive of reality except as a kind of strife between order and disorder, within which a sacrificial economy held all forces in tension. This is true even of Platonism, with its inextirpable dualism, its dialectic of change and the changeless (or of limit and the infinite), and its equation of truth with eidetic abstraction; the world, for all its beauty, is the realm of fallen vision, separated by a great *chorismos* from the realm of immutable reality.

It is true of Aristotle too: the dialectic of act and potency that, for sublunary beings, is inseparable from decay and death, or the scale of essences by which all things—especially various classes of persons—are assigned their places in the natural and social order. Stoicism offers an obvious example: a vision of the universe as a fated, eternally repeated divine and cosmic history, a world in which finite forms must constantly perish simply in order to make room for others, and which in its entirety is always consumed in a final *ecpyrosis* (which makes a sacrificial pyre, so to speak, of the whole universe). And Neoplatonism furnishes the most poignant example, inasmuch as its monism merely inverts earlier Platonism's dualism and only magnifies the melancholy. Not only is the mutable world separated from its divine principle—the One—by intervals of emanation that descend in ever greater alienation from their source, but because the highest truth is the secret identity between the human mind and the One, the labor of philosophy is one of escape: all multiplicity, change, particularity, every feature of the living world, is not only accidental to this formless identity, but a kind of falsehood, and to recover

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the truth that dwells within, one must detach oneself from what lies without, including the sundry incidentals of one's individual existence; truth is oblivion of the flesh, a pure nothingness, to attain which one must sacrifice the world.

In any event, the purpose behind these indefensibly broad pronouncements—however elliptically pursued—is to aid in recalling how shatteringly subversive Christianity was of so many of the certitudes of the world it entered, and how profoundly its exclusive fidelity to the God of Christ transformed that world. This is, of course, no more than we should expect, if we take the New Testament's Paschal triumphalism to heart: "Now is the judgment of this world, now will the prince of this world be cast out" (John 12:31); "I have overcome the world" (John 16:33); he is "far above all principality, and power, and might, and dominion" and all things are put "under his feet" (Ephesians 1:21-2); "having spoiled principalities and powers, he made a show of them openly, triumphing over them in it" (Colossians 2:15); "he led captivity captive" (Ephesians 4:8); and so on. Still, we can largely absorb Scripture's talk of the defeat of the devil, the angels of the nations, and the powers of the air, and yet fail to recognize how radically the Gospels reinterpreted (or, as Nietzsche would say, "transvalued") everything in the light of Easter.

The example of this I find most striking is the account John's Gospel gives of the dialogue between Christ and Pilate (John 18:28-19:12). Nietzsche, the quixotic champion of the old standards, thought jesting Pilate's "What is truth?" to be the only moment of actual nobility in the New Testament, the wry taunt of an acerbic ironist unimpressed by the pathetic fantasies of a deranged peasant. But one need not share Nietzsche's sympathies to take his point; one can certainly see what is at stake when Christ, scourged and mocked, is brought before Pilate a second time: the latter's "Whence art thou?" has about it something of a demand for a pedigree, which might at least lend some credibility to the claims Christ makes for himself; for want of which, Pilate can do little other than pronounce his truth: "I have power to crucify thee" (which, to be fair, would under most circumstances be an incontrovertible argument).

It is worth asking ourselves what this tableau, viewed from the vantage of pagan antiquity, would have meant. A man of noble birth, representing the power of Rome, endowed with authority over life and death, confronted by a barbarous colonial of no name or estate, a slave of the empire, beaten, robed in purple, crowned with thorns, insanely invoking an otherworldly kingdom and some esoteric truth, unaware of either his absurdity or his judge's eminence. Who could have doubted where, between these two, the truth of things was to be found? But the Gospel is written in the light of the resurrection, which reverses the meaning of this scene entirely. If God's truth is in fact to be found where Christ stands, the mockery visited on him redounds instead upon the emperor, all of whose regal finery, when set beside the majesty of the servile shape in which God reveals Himself, shows itself to be just so many rags and briars.

This slave is the Father's eternal Word, whom God has vindicated, and so ten thousand immemorial certainties are unveiled as lies: the first become last, the mighty are put down from their seats and the lowly exalted, the hungry are filled with good things while the rich are sent empty away. Nietzsche was quite right to be appalled. Almost as striking, for me, is the tale of Peter, at the cock's crow, going apart to weep. Nowhere in the literature of pagan antiquity, I assure you, had the tears of a rustic been regarded as worthy of anything but ridicule; to treat them with reverence, as meaningful expressions of real human sorrow, would have seemed grotesque from the perspective of all the classical canons of good taste. Those wretchedly subversive tears, and the dangerous philistinism of a narrator so incorrigibly vulgar as to treat them with anything but contempt, were most definitely signs of a slave revolt in morality, if not quite the one against which Nietzsche inveighed—a revolt, moreover, that all the ancient powers proved impotent to resist.

In a narrow sense, then, one might say that the chief offense of the Gospels is their defiance of the insights of tragedy—and not only because Christ does not fit the model of the well-born tragic hero. More important is the incontestable truth that, in the Gospels, the destruction of the protagonist emphatically does not restore or affirm the order of city or cosmos. Were the Gospels to end with Christ's sepulture, in good tragic style, it would exculpate all parties, including Pilate and the Sanhedrin, whose judgments would be shown to have been fated by the exigencies of the crisis and the burdens of their offices; the story would then reconcile us to the tragic necessity of all such judgments. But instead comes Easter, which rudely interrupts all the minatory and sententious moralisms of the tragic chorus, just as they are about to be uttered to full effect, and which cavalierly violates the central tenet of sound economics: rather than trading the sacrificial victim for some supernatural benefit, and so the particular for the universal, Easter restores the slain hero in his particularity again, as the only truth the Gospels have to offer. This is more than a dramatic peripety. The empty tomb overturns all the "responsible" and

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"necessary" verdicts of Christ's judges, and so grants them neither legitimacy nor pardon.

In a larger sense, then, the entire sacrificial logic of a culture was subverted in the Gospels. I cannot attempt here a treatment of the biblical language of sacrifice, but I think I can safely assert that Christ's death does not, in the logic of the New Testament sources, fit the pattern of sacrifice I have just described. The word "sacrifice" is almost inexhaustible in its polysemy, particularly in the Old Testament, but the only sacrificial model explicitly invoked in the New Testament is that of the Atonement offering of Israel, which certainly belongs to no cosmic cycle of prudent expenditure and indemnity. It is, rather, a *qurban*, literally a "drawing nigh" into the life-giving presence of God's glory. Israel's God requires nothing; He creates, elects, and sanctifies without need—and so the Atonement offering can in no way contribute to any sort of economy. It is instead a penitent approach to a God who gives life freely, and who not only does not profit from the holocaust of the particular, but who in fact fulfils the "sacrifice" simply by giving his gift again. This giving again is itself, in fact, a kind of "sacrificial" motif in Hebrew Scripture, achieving its most powerful early expression in the story of Isaac's *aqedah*, and arriving at its consummation, perhaps, in Ezekiel's vision in the valley of dry bones. After all, a people overly burdened by the dolorous superstitions of tragic wisdom could never have come to embrace the doctrine of resurrection.

I am tempted to say, then, that the cross of Christ is not simply a sacrifice, but the place where two opposed understandings of sacrifice clashed. Christ's whole life was a reconciling *qurban*: an approach to the Father, a real indwelling of God's glory in the temple of Christ's body, and an atonement made for a people enslaved to death. In pouring himself out in the form of a servant, and in living his humanity as an offering up of everything to God in love, the shape of the eternal Son's life was already sacrificial in this special sense; and it was this absolute giving, as God and man, that was made complete on Golgotha. While, from a pagan perspective, the crucifixion itself could be viewed as a sacrifice in the most proper sense—destruction of the agent of social instability for the sake of peace, which is always a profitable exchange—Christ's life of charity, service, forgiveness, and righteous judgment could not; indeed, it would have to seem the very opposite of sacrifice, an aneconomic and indiscriminate inversion of rank and order. Yet, at Easter, it is the latter that God accepts and the former He rejects; what, then, of all the hard-won tragic wisdom of the ages?

Naturally, also, with the death of the old mythos, metaphysics too was transformed. For one thing, while every ancient system of philosophy had to presume an economy of necessity binding the world of becoming to its inmost or highest principles, Christian theology taught from the first that the world was God's creature in the most radically ontological sense: that it is called from nothingness, not out of any need on God's part, but by grace. The world adds nothing to the being of God, and so nothing need be sacrificed for His glory or sustenance. In a sense, God and world alike were liberated from the fetters of necessity; God could be accorded His true transcendence and the world its true character as divine gift. The full implications of this probably became visible to Christian philosophers only with the resolution of the fourth-century trinitarian controversies, when the subordinationist schemes of Alexandrian trinitarianism were abandoned, and with them the last residue within theology of late Platonism's vision of a descending scale of divinity mediating between God and world—the both of them comprised in a single totality.

In any event, developed Christian theology rejected nothing good in the metaphysics, ethics, or method of ancient philosophy, but—with a kind of omnivorous glee—assimilated such elements as served its ends, and always improved them in the process. Stoic morality, Plato's language of the Good, Aristotle's metaphysics of act and potency—all became richer and more coherent when emancipated from the morbid myths of sacrificial economy and tragic necessity. In truth, Christian theology nowhere more wantonly celebrated its triumph over the old gods than in the use it made of the so-called *spolia Aegyptorum*; and, by despoiling pagan philosophy of its most splendid achievements and integrating them into a vision of reality more complete than philosophy could attain on its own, theology took to itself irrevocably all the intellectual glories of antiquity. The temples were stripped of their gold and precious ornaments, the sacred vessels were carried away into the precincts of the Church and turned to better uses, and nothing was left behind but a few grim, gaunt ruins to lure back the occasional disenchanted Christian and shelter a few atavistic ghosts.

This last observation returns me at last to my earlier contention: that Christianity assisted in bringing the nihilism of modernity to pass. The command to have no other god but Him whom Christ revealed was never for Christians simply an invitation to forsake an old cult for a new, but was an announcement that the shape of the world had changed, from the depths of hell to the heaven of heavens, and all nations were called to submit to Jesus as Lord. In the great "transvaluation" that followed, there was no sphere of social, religious, or intellectual life that the Church did not claim for itself; much was abolished, and much of

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the grandeur and beauty of antiquity was preserved in a radically altered form, and Christian civilization—with its new synthesis and new creativity—was born.

But what is the consequence, then, when Christianity, as a living historical force, recedes? We have no need to speculate, as it happens; modernity speaks for itself: with the withdrawal of Christian culture, all the glories of the ancient world that it baptized and redeemed have perished with it in the general cataclysm. Christianity is the midwife of nihilism, not because it is itself nihilistic, but because it is too powerful in its embrace of the world and all of the world's mystery and beauty; and so to reject Christianity now is, of necessity, to reject everything except the barren anonymity of spontaneous subjectivity. As Ivan Karamazov's Grand Inquisitor tells Christ, the freedom that the gospel brings is too terrible to be borne indefinitely. Our sin makes us feeble and craven, and we long to flee from the liberty of the sons of God; but where now can we go? Everything is Christ's.

This is illustrated with striking clarity by the history of modern philosophy, at least in its continental (and, so to speak, proper) form. It is fashionable at present, among some theologians, to attempt precise genealogies of modernity, which in general I would rather avoid doing; but it does seem clear to me that the special preoccupations and perversities of modern philosophy were incubated in the age of late Scholasticism, with the rise of nominalism and voluntarism. Whereas earlier theology spoke of God as Goodness as such, whose every act (by virtue of divine simplicity) expresses His nature, the spectre that haunts late Scholastic thought is a God whose will precedes His nature, and whose acts then are feats of pure spontaneity. It is a logically incoherent way of conceiving of God, as it happens (though I cannot argue that here), but it is a powerful idea, elevating as it does will over all else and redefining freedom—for God and, by extension, for us—not as the unhindered realization of a nature (the liberty to "become what you are"), but as the absolute liberty of the will in determining even what its nature is.

Thus when modern philosophy established itself anew as a discipline autonomous from theology, it did so naturally by falling back upon an ever more abyssal subjectivity. Real autonomy could not be gained by turning back to the wonder of being or to the transcendental perfections of the world, for to do so would be to slip again into a sphere long colonized by theology. And so the new point of departure for reason had to be the perceiving subject rather than the world perceived. Descartes, for instance, explicitly forbade himself any recourse to the world's testimony of itself; in his third Meditation, he seals all his senses against nature, so that he can undertake his rational reconstruction of reality from a position pure of any certitude save that of the ego's own existence. The world is recovered thereafter only insofar as it is "posited," as an act of will. And while God appears in that reconstruction, He does so only as a logical postulate following from the idea of the infinite.

From there, it is a short step to Kant's transcendental ego, for whom the world is the representation of its own irreducible "I think," and which (inasmuch as it is its own infinity) requires God as a postulate only in the realm of ethics, and merely as a regulative idea in the realm of epistemology. And the passage from transcendental idealism to absolute idealism, however much it involved an attempt to escape egoistic subjectivity, had no world to which to return. Even Hegel's system, for all that it sought to have done with petty subjectivism, could do so only by way of a massive metaphysical myth of the self-positing of the Concept, and of a more terrible economy of necessity than any pagan antiquity had imagined. This project was, in every sense, incredible, and its collapse inevitably brought philosophy, by way of Nietzsche and Heidegger, to its "postmodern condition"—a "heap of broken images." If Heidegger was right—and he was—in saying that there was always a nihilistic core to the Western philosophical tradition, the withdrawal of Christianity leaves nothing but that core behind, for the gospel long ago stripped away both the deceits and the glories that had concealed it; and so philosophy becomes, almost by force of habit, explicit nihilism.

Modern philosophy, however, merely reflects the state of modern culture and modern cult; and it is to this sphere that I should turn now, as it is here that spiritual warfare is principally to be waged.

I should admit that I, for one, feel considerable sympathy for Nietzsche's plaint, "Nearly two-thousand years and no new god"—and for Heidegger intoning his mournful oracle: "Only a god can save us." But of course none will come. The Christian God has taken up everything into Himself; all the treasures of ancient wisdom, all the splendor of creation, every good thing has been assumed into the story of the incarnate God, and every stirring towards transcendence is soon recognized by the modern mind—weary of God—as leading back towards faith. Antique pieties cannot be restored, for we moderns know that the hungers they excite can be sated only by the gospel of Christ and him crucified. To be a Stoic today, for instance, is simply to be a soul *in via* to the Church; a Platonist, most of us understand, is only a Christian manqué; and a polytheist is merely a truant from the one God he hates and loves.

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The only cult that can truly thrive in the aftermath of Christianity is a sordid service of the self, of the impulses of the will, of the nothingness that is all that the withdrawal of Christianity leaves behind. The only futures open to post-Christian culture are conscious nihilism, with its inevitable devotion to death, or the narcotic banality of the Last Men, which may be little better than death. Surveying the desert of modernity, we would be, I think, morally derelict not to acknowledge that Nietzsche was right in holding Christianity responsible for the catastrophe around us (even if he misunderstood why); we should confess that the failure of Christian culture to live up to its victory over the old gods has allowed the dark power that once hid behind them to step forward *in propria persona*. And we should certainly dread whatever rough beast it is that is being bred in our ever coarser, crueler, more inarticulate, more vacuous popular culture; because, cloaked in its anodyne insipience, lies a world increasingly devoid of merit, wit, kindness, imagination, or charity.

These are, I admit, extreme formulations. But, while I may delight in provocation, I do not wish on this point to be misunderstood. When recently I made these very remarks from a speaker's podium, two theologians (neither of whom I would consider a champion of modernity) raised objections. From one quarter, I was chided for forgetting the selflessness of which modern persons are capable. September 11, 2001, I was reminded, demonstrated the truth of this, surely; and those of us who teach undergraduates must be aware that, for all the cultural privations they suffer, they are often decent and admirable. From the other quarter I was cautioned that so starkly stated an alternative as "Christianity or nihilism" amounted to a denial of the goodness of natural wisdom and virtue, and seemed to suggest that *gratia non perficit, sed destruit naturam*. As fair as such remarks may be, however, they are not apposite to my argument.

In regard to the first objection, I would wish to reply by making clear that I do not intend to suggest that, because modernity has lost the organic integrity of Christianity's moral grammar, every person living in modern society must therefore become heartless, violent, or unprincipled. My observations are directed at the dominant language and ethos of a culture, not at the souls of individuals. Many among us retain some loyalty to ancient principles, most of us are in some degree premodern, and there are always and everywhere to be found examples of natural virtue, innate nobility, congenital charity, and so on, for the light of God is ubiquitous and the image of God is impressed upon our nature. The issue for me is whether, within the moral grammar of modernity, any of these good souls could give an account of his or her virtue.

I wish, that is, to make a point not conspicuously different from Alasdair MacIntyre's in the first chapter of his *After Virtue*: in the wake of a morality of the Good, ethics has become a kind of incoherent bricolage. As far as I can tell, *homo nihilisticus* may often be in several notable respects a far more amiable rogue than *homo religiosus*, exhibiting a far smaller propensity for breaking the crockery, destroying sacred statuary, or slaying the nearest available infidel. But, love, let us be true to one another: even when all of this is granted, it would be a willful and culpable blindness for us to refuse to recognize how aesthetically arid, culturally worthless, and spiritually depraved our society has become. That this is not hyperbole a dispassionate appraisal of the artifacts of popular culture—of the imaginative coarseness and cruelty informing them—will quickly confirm. For me, it is enough to consider that, in America alone, more than forty million babies have been aborted since the Supreme Court invented the "right" that allows for this, and that there are many for whom this is viewed not even as a tragic "necessity," but as a triumph of moral truth. When the Carthaginians were prevailed upon to cease sacrificing their babies, at least the place vacated by Baal reminded them that they should seek the divine above themselves; we offer up our babies to "my" freedom of choice, to "me." No society's moral vision has ever, surely, been more degenerate than that.

And to the second objection, I would begin by noting that my remarks here do not concern the entirety of human experience, nature, or culture; they concern one particular location in time and space: late Western modernity. Nor have I anything to say about cultures or peoples who have not suffered the history of faith and disenchantment we have, or who do not share our particular relation to European antiquity or the heritage of ancient Christendom. "Nihilism" is simply a name for post-Christian sensibility and conviction (and not even an especially opprobrious one). Moreover, the alternative between Christianity and nihilism is never, in actual practice, a kind of Kierkegaardian either/or posed between two absolute antinomies, incapable of alloy or medium; it is an antagonism that occurs along a continuum, whose extremes are rarely perfectly expressed in any single life (else the world were all saints and satanists).

Most importantly, though, my observations do not concern nature at all, which is inextinguishable and which, at some level, always longs for God; they concern culture, which has the power to purge itself of the natural in some considerable degree. Indeed, much of the discourse of late modernity—speculative, critical,

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moral, and political—consists precisely in an attempt to deny the authority, or even the reality, of any general order of nature or natures. Nature is good, I readily affirm, and is itself the first gift of grace. But that is rather the point at issue: for modernity is unnatural, is indeed anti-nature, or even anti-Christ (and so goeth about as a roaring lion, seeking whom it may devour).

Which is why I repeat that our age is not one in danger of reverting to paganism (would that we were so fortunate). If we turn from Christ today, we turn only towards the god of absolute will, and embrace him under either his most monstrous or his most vapid aspect. A somewhat more ennobling retreat to the old gods is not possible for us; we can find no shelter there, nor can we sink away gently into those old illusions and tragic consolations that Christ has exposed as falsehoods. To love or be nourished by the gods, we would have to fear them; but the ruin of their glory is so complete that they have been reduced—like everything else—to commodities.

Nor will the ululations and lugubrious platitudes and pious fatalism of the tragic chorus ever again have the power to recall us to sobriety. The gospel of a God found in broken flesh, humility, and measureless charity has defeated all the old lies, rendered the ancient order visibly insufficient and even slightly absurd, and instilled in us a longing for transcendent love so deep that—if once yielded to—it will never grant us rest anywhere but in Christ. And there is a real sadness in this, because the consequences of so great a joy rejected are a sorrow, bewilderment, and anxiety for which there is no precedent. If the nonsensical religious fascinations of today are not, in any classical or Christian sense, genuine pieties, they are nevertheless genuine—if deluded—expressions of grief, encomia for a forsaken and half-forgotten home, the prisoner's lament over a lost freedom. For Christians, then, to recover and understand the meaning of the command to have "no other god," it is necessary first to recognize that the victory of the Church in history was not only incomplete, but indeed set free a force that the old sacral order had at least been able to contain; and it is against this more formless and invincible enemy that we take up the standard of the commandment today.

Moreover, we need to recognize, in the light of this history, that this commandment is a hard discipline: it destroys, it breaks in order to bind; like a cautery, it wounds in order to heal; and now, in order to heal the damage it has in part inflicted, it must be applied again. In practical terms, I suspect that this means that Christians must make an ever more concerted effort to recall and recover the wisdom and centrality of the ascetic tradition. It takes formidable faith and devotion to resist the evils of one's age, and it is to the history of Christian asceticism—especially, perhaps, the apophthegms of the Desert Fathers—that all Christians, whether married or not, should turn for guidance. To have no god but the God of Christ, after all, means today that we must endure the lenten privations of what is most certainly a dark age, and strive to resist the bland solace, inane charms, brute viciousness, and dazed passivity of post-Christian culture—all of which are so tempting precisely because they enjoin us to believe in and adore ourselves.

It means also to remain aloof from many of the moral languages of our time, which are—even at their most sentimental, tender, and tolerant—usually as decadent and egoistic as the currently most fashionable vices. It means, in short, self-abnegation, contrarianism, a willingness not only to welcome but to condemn, and a refusal of secularization as fierce as the refusal of our Christian ancestors to burn incense to the genius of the emperor. This is not an especially grim prescription, I should add: Christian asceticism is not, after all, a cruel disfigurement of the will, contaminated by the world-weariness or malice towards creation that one can justly ascribe to many other varieties of religious detachment. It is, rather, the cultivation of the pure heart and pure eye, which allows one to receive the world, and rejoice in it, not as a possession of the will or an occasion for the exercise of power, but as the good gift of God. It is, so to speak, a kind of "Marian" waiting upon the Word of God and its fruitfulness. This is why it has the power to heal us of our modern derangements: because, paradoxical as it may seem to modern temperaments, Christian asceticism is the practice of love, what Maximus the Confessor calls learning to see the logos of each thing within the Logos of God, and it eventuates most properly in the grateful reverence of a Bonaventure or the lyrical ecstasy of a Thomas Traherne.

Still, it is a discipline for all that; and for us today it must involve the painful acknowledgement that neither we nor our distant progeny will live to see a new Christian culture rise in the Western world, and to accept this with both charity and faith. We must, after all, grant that, in the mystery of God's providence, all of this has followed from the work of the Holy Spirit in time. Modern persons will never find rest for their restless hearts without Christ, for modern culture is nothing but the wasteland from which the gods have departed, and so this restlessness has become its own deity; and, deprived of the shelter of the sacred and the consoling myths of sacrifice, the modern person must wander or drift, vainly attempting one or another accommodation with death, never escaping anxiety or ennui, and driven as a result to a ceaseless labor of dis-

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traction, or acquisition, or willful idiocy. And, where it works its sublimest magic, our culture of empty spectacle can so stupefy the intellect as to blind it to its own disquiet, and induce a spiritual torpor more deplorable than mere despair.

But we Christians—while not ignoring how appalling such a condition is—should yet rejoice that modernity offers no religious comforts to those who would seek them. In this time of waiting, in this age marked only by the absence of faith in Christ, it is well that the modern soul should lack repose, piety, peace, or nobility, and should find the world outside the Church barren of spiritual rapture or mystery, and should discover no beautiful or terrible or merciful gods upon which to cast itself. With Christ came judgment into the world, a light of discrimination from which there is neither retreat nor sanctuary. And this means that, as a quite concrete historical condition, the only choice that remains for the children of post-Christian culture is not whom to serve, but whether to serve Him whom Christ has revealed or to serve nothing—*the* nothing. No third way lies open for us now, because—as all of us now know, whether we acknowledge it consciously or not—all things have been made subject to Him, all the thrones and dominions of the high places have been put beneath His feet, until the very end of the world, and—simply said—there *is* no other god. FT

Verses of the Soul That Pines to See God

Not in myself do I live
but in such great hope, that I
die of longing to die.

I no longer live in me;
lacking God, from life I'm driven;
lacking God or self to live in,
what, then, can this living be?
True life must come, by and by.
A thousand deaths is the fee,
since life must come, by and by,
and I die, longing to die.

This life that I now endure
is not life but its denial;
a continuous death, my trial
till I dwell with you secure.
Gather, my Lord, with what sure
contempt from this life I fly
and I die, longing to die.

Absent, as I am, from you,
what life can I have but death
who suffer, in drawing breath,
what the greatest death can do?
I regard my fate with rue;
my misfortunes multiply;
I die with longing to die.

The fish that's pulled from the wave
finds balm of a certain sort:
the death he suffers is short
and brings the rest he may crave.
But what death could be as grave
as mine, who in life must sigh,
and live more, the more to die?

What comfort I taste is brief
finding you in bread and wine:
to know you cannot be mine
recalls me to greater grief.
I sorrow without relief
for the sight that you deny,
and die, for I long to die.

My joy, Lord, is to believe
that I shall behold you clear;
but doubting you will appear
causes me doubly to grieve
when such terror I conceive,
and harbor a hope so high,
that I die, longing to die.

St. John of the Cross (1542-1591)
translated from the Spanish by
Rhina P. Espaillat

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Books in Review

Postmodernist Ecumenism

The Church in a Postliberal Age. By George A. Lindbeck. Edited by James J. Buckley. *Eerdmans. 300 pp. $27.*

Reviewed by
Avery Cardinal Dulles

George Lindbeck was almost predestined to eminence in the fields of ecumenism and interreligious dialogue. After living his first seventeen years in China as the son of missionary parents, he received a strong Lutheran education in Minnesota. Then as a graduate student at Yale he wrote a doctoral dissertation on Duns Scotus. At Vatican II he was one of several observer delegates appointed by the Lutheran World Federation. Thereafter he taught many years at Yale, becoming an emeritus professor in 1993. As a teacher he formed a generation of outstanding theologians. He also participated in innumerable dialogues, especially with Roman Catholics. For some years he was the Lutheran cochairman of the Lutheran/Roman Catholic Joint Commission.

Lindbeck has written only a few books, and those rather brief. *The Future of Roman Catholic Theology* (1970) was his reflection on the achievements of Vatican II. Then in 1984 he published *The Nature of Doctrine*, which attracted considerable attention.

The Church in a Postliberal Age is a collection of fourteen of Lindbeck's articles. The editor, James J. Buckley, is a former student of Lindbeck and a Catholic. He has provided introductory notes and references to other works of Lindbeck for the benefit of scholars who may wish to investigate the author's thought more deeply. The editing is splendid except for an inordinate number of misprints, especially in proper names and in foreign words. The author habitually uses Latin terms without regard to gender and case.

Lindbeck as an ecumenist puts to himself the question: How can religious groups that have long disagreed come to agreement without repudiating their previous positions, as Lutherans and Catholics seem to have done, for example, in the 1999 Joint Declaration on Justification? Lindbeck is not so much interested in what the parties agree to as in the how—that is, the method by which differences may be overcome.

As an answer Lindbeck proposes an original theory of doctrine. In the past, he thinks, doctrines were generally understood as truth-claims about objective reality. This is what he calls the cognitive-propositionalist position. In modern theology doc-

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trines are often understood as noninformative symbols that express deep human experiences of the divine—the position that Lindbeck designates as "experiential-expressivist." Seeking to transcend both of these positions, he proposes what he calls the "cultural-linguistic" theory of doctrine. Summarized in my own words, the theory amounts to something like this: doctrine is the way in which adherents are socialized into a particular religious group. It is a "deep grammar," enabling members of the community to think, speak, and act as members. So conceived, doctrine is not a mere medium for transmitting some antecedent truth or reality, nor is it the expression of an experience that is independent of the doctrine itself. The linguistic system is inseparable from the content and shapes the experience for those who submit to its power.

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LINDBECK credits a number of thinkers for contributing to his theory. Theologically he is indebted to Karl Barth; philosophically, to Ludwig Wittgenstein. He also owes debts to the cultural anthropology of Clifford Geertz and to the theory of scientific revolutions excogitated by Thomas Kuhn. At Yale, Lindbeck stands close to several colleagues: the late Hans Frei, the exegete Brevard Childs, and the theologian David Kelsey, who are sometimes grouped together as the "Yale School."

Although his mentors and colleagues are not Lutheran, the cultural-linguistic theory, as Lindbeck propounds it, is recognizably Lutheran in the irenic tradition of Melanchthon. Lindbeck, for example, accepts the *sola Scriptura*. For him Scripture is the basic Christian document, and tradition is the self-transmission of the biblical word. Since God's identity is unknown except through His scripturally witnessed dealings with the world, says Lindbeck, the Bible is the primary lens though which the believer sees the world. It founds a universe of discourse and provides a comprehensive framework for construing the whole of reality.

The Lutheran *sola fide*, as Lindbeck appropriates it, is a trusting response to the promises contained in the word of God. The believer remains a sinner, *simul iustus et peccator*, because, as Luther put it, "we do not yet have our goodness *in re*, but *in fide et spe*." Lindbeck attacks Karl Rahner for overemphasizing implicit faith and failing to recognize that all faith is *ex auditu*. But unlike the Lutherans of old, Lindbeck applies his principle of "faith from hearing" to non-Christians. They live by explicit faith in the doctrines embedded in their respective religions and cultures.

The Church, for Lindbeck, is not the sacrament of salvation, as Vatican II would have it, but is a humble *creatura Verbi*. Lindbeck defines the Church in terms of its human element as *congregatio fidelium*. From this perspective he can say that the Church is, in Lutheran language, *simul iusta et peccatrix*. It cannot claim to be immune to sin. Like other Lutherans, Lindbeck is on guard against complacency, arrogance, and triumphalism. As for the Church's mission, it is not to save souls but to be a faithfully witnessing people.

Lindbeck finds Christianity at a unique juncture in its history. What he calls "Constantinian" Christianity—a term he apparently equates with cultural Christianity and Christendom—has definitively collapsed. The Church, he says, is everywhere in a state of diaspora. As the world becomes progressively more secularized, the Church cannot maintain its identity except by becoming in some ways sectarian. "The religion of the future," according to Lindbeck, "will become not only more religious, but more sectarian." Avoiding all accommodation, Christians will do well to form "a Christian internationale of sect-like groups passionately committed to the sacrificial service of mankind."

Lindbeck faults the ecumenism of official bureaucracies for weakening the churches by adapting them to an increasingly nonreligious society. In its place he calls for an ecumenical

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sectarianism. Appealing to his cultural-linguistic theory of doctrine, he maintains that the doctrinal controversies of the past can now be surmounted. Each doctrine functions as part of a system, which takes on different shapes in changing contexts. "Dogmas, from this point of view, are statements which seek to summarize, defend, or explicate those aspects of the symbol or action systems of the community which are seen as particularly important within a given situation."

Lindbeck illustrates this with his account of the dogma of papal infallibility. It was formulated in extreme language by Vatican I, he believes, under the influence of seventeenth-century monarchical absolutism and the nineteenth-century cult of personality. Since Vatican II there has been a "demise of papalism among the better theologians, and eventually, one may suppose, though at much longer term, in all parts of the Church." It is now generally conceded, Lindbeck writes (in an essay of 1972), "that the conciliarism of the Constance decree *Haec sancta* has as good a historical claim to dogmatic status as *Pastor aeternus* itself." To judge from the references, the "better theologians" turn out to be authors such as Brian Tierney, Francis Oakley (whose name is misspelled), and Hans Küng.

THE KEY to reconciliation in Lindbeck's ecumenical theology seems to be a recognition that doctrines are practical directives correlated with particular historical situations. Interpreted in this way, they need not be seen as excluding their own logical contradictories, because the contradictory doctrine was formulated in, and is correlative to, a different situation. Thus the Augustinian *sola gratia*, which holds for intrinsic justification, was formulated in opposition to Pelagianism. It need not be seen as negating the Lutheran *sola fide*, which regards justification as extrinsic, since the latter was formulated late in the Middle Ages to relieve the consciences of people oppressed by a sense of sin.

In other passages Lindbeck argues that the Catholic doctrine of magisterial infallibility, as currently understood, differs so little from some Protestant denials of magisterial infallibility that the difference need not be seen as a barrier to full communion between the churches. Reconciled diversity for Lindbeck does not demand agreed doctrinal formulations.

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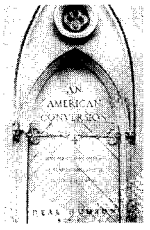

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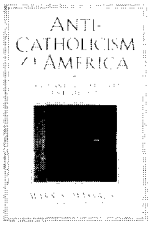

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Lindbeck reports that he has repeatedly found that the old propositional and symbolic construals of doctrine no longer apply to the current situation. "Light dawns when one uses a new category (church doctrines as instantiations of regulative principles within a cultural-linguistic system)."

In several essays Lindbeck extends his irenicism to Jewish-Christian relations. Strongly opposed to supersessionism as he defines it, he holds that the New Israel is not a people distinct from the Old Israel, but simply an extension or enlargement of the Old. The New Covenant permits Gentile Christians to be included in the covenant with Abraham. The light of the Messianic dawn shines more brightly in the Church than in Israel, whether before or after Christ, but this does not mean that Christians have found an easier path to salvation. They have a greater responsibility and a greater potential for infidelity.

Having shown that Christians have no grounds for exalting themselves over Jews, Lindbeck does much the same for their relationship to the nonbiblical religions. Christians are tempted to think that because they believe in Christ as universal Savior, theirs is a higher religion. Lindbeck, however, opts for a basic equality—or so it seems. As regards salvation, he reminds his readers that God can use any means He wishes to save whomever He chooses. Christians should get over their fixation on salvation, which has been used to justify unwelcome proselytization. They should attempt a non-soteriological approach with a view to establishing amicable relations with nonbiblical peoples.

As appears from this cursory survey, Lindbeck's essays contain much food for reflection. He goes to unusual lengths to be fair to others, taking full account of their particular points of view. Within this perspectivalism he finds it possible to maintain his own Christian and Lutheran allegiance.

I AM ENTHUSIASTIC about many aspects of the Lindbeck project. In particular, I agree that society is being rapidly secularized and that the churches must take on certain sectarian features in order to transmit their heritage to new members. The transmission requires induction into the stories and symbol-systems of the churches; it calls for experiences of prayer and worship. The cultural-linguistic theory of revelation has the great value of pointing out that religious knowledge is never a matter of mere information. The believer is not a mere spectator but a participant in the reality that is believed. Since religious doctrine is comprehensible only from within, it requires a suitable spiritual preparation.

For Lindbeck, the truth of Christianity (and of any confessional tradition) is predominantly intrasystemic. Within the Christian framework he affirms the Lutheran *solus Christus* (sometimes phrasing it rather oddly as *sola Christi*). But he refrains from saying that God is in Himself triune, or that the Son of God is really a divine person. The rhetoric of Lindbeck, if not his actual thought, seems to undercut the missionary enterprise. In an effort to achieve an interreligious dialogue without tension, he ends by making dialogue rather bland.

Lindbeck's resolution of intra-Christian doctrinal disputes is likewise too facile. His accounts of the true meaning of papal primacy and infallibility, overinfluenced by au-

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thors such as Hans Küng and Thomas Kuhn, are reductive, as is his interpretation of the Lutheran *sola fide*. It would be better to deny the doctrines than to explain them so relativistically.

In agreement with Lindbeck's editor, I do not see the cultural-linguistic approach as antithetical to the propositional. If we are to worship, speak, and behave as though the Son of God were himself God (as Lindbeck rightly affirms), is it not because the Son really and ontologically is God, whether anyone believes it or not? By inserting the *homoousion* in the creed, the Council of Nicaea was indeed laying down a linguistic stipulation; but more importantly, it was declaring an objective truth.

As Michael Polanyi shows at length, the depiction of language as a set of convenient symbols used according to the conventional rules of a "language game" is deceptive. Against Wittgenstein, Polanyi argues that we cannot intelligently debate about linguistic rules unless we are conjointly aware of the subject matter to which the words refer. To substitute grammatical debates for debates about the things meant is to obfuscate the necessary connection between meaningful language and reality.

Lindbeck would doubtless call to my attention the utter mysteriousness of the divine. The mystery I concede, but not to the extent of endorsing agnosticism. Something like the medieval doctrine of analogy needs to be revived in order to show how our most positive statements about God have a negative component. They cannot be rightly understood except by persons who undergo a kind of mystagogy, enabling them to glimpse the transcendent through concepts derived from finite things. While rightly rejecting univocal literalism, Lindbeck seriously undermines, if he does not dismiss, the propositional truth of dogma.

Like Lindbeck and Polanyi, I wish to overcome the limitations of the liberal or critical program without falling into modernist subjectivism. But Lindbeck's own program concedes too much to postmodernist relativism. I would hope that he could amend his cultural-linguistic theory to give greater attention to the capacity of religious language to disclose the reality of God.

A Conservative Innovator

Jonathan Edwards: A Life. By George M. Marsden. *Yale University Press. 615 pp. $35.*

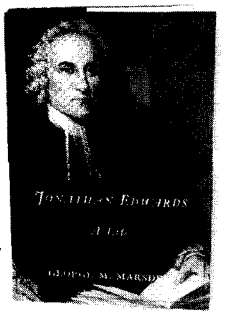
Reviewed by George McKenna

Since Jonathan Edwards' death 245 years ago, his reputation has undergone so many ups and downs that it is hard to get a fix on his identity. In the last century alone, he went from a narrow-minded provincial who wasted his life defending an outworn Calvinist creed—the picture painted by the "progressive" historians of the 1920s—to a solitary genius who "grasped in a flash" the whole direction of modern thought, the image projected by Perry Miller in his 1949 biography.

Both of these portraits contain elements of truth; what makes them seriously flawed is not so much willful misrepresentation as insufficient attention to facts that would complicate their portraits. In *Jonathan Edwards: A Life*, George Marsden provides a less tidy, which is to say, much more complete, account of Edwards' life and work, bringing in a

George McKenna, *Professor of Political Science Emeritus at City College of New York, is writing a book on the Puritan origins of American patriotism.*

Jonathan Edwards
A Life
George M. Marsden



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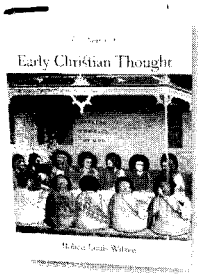

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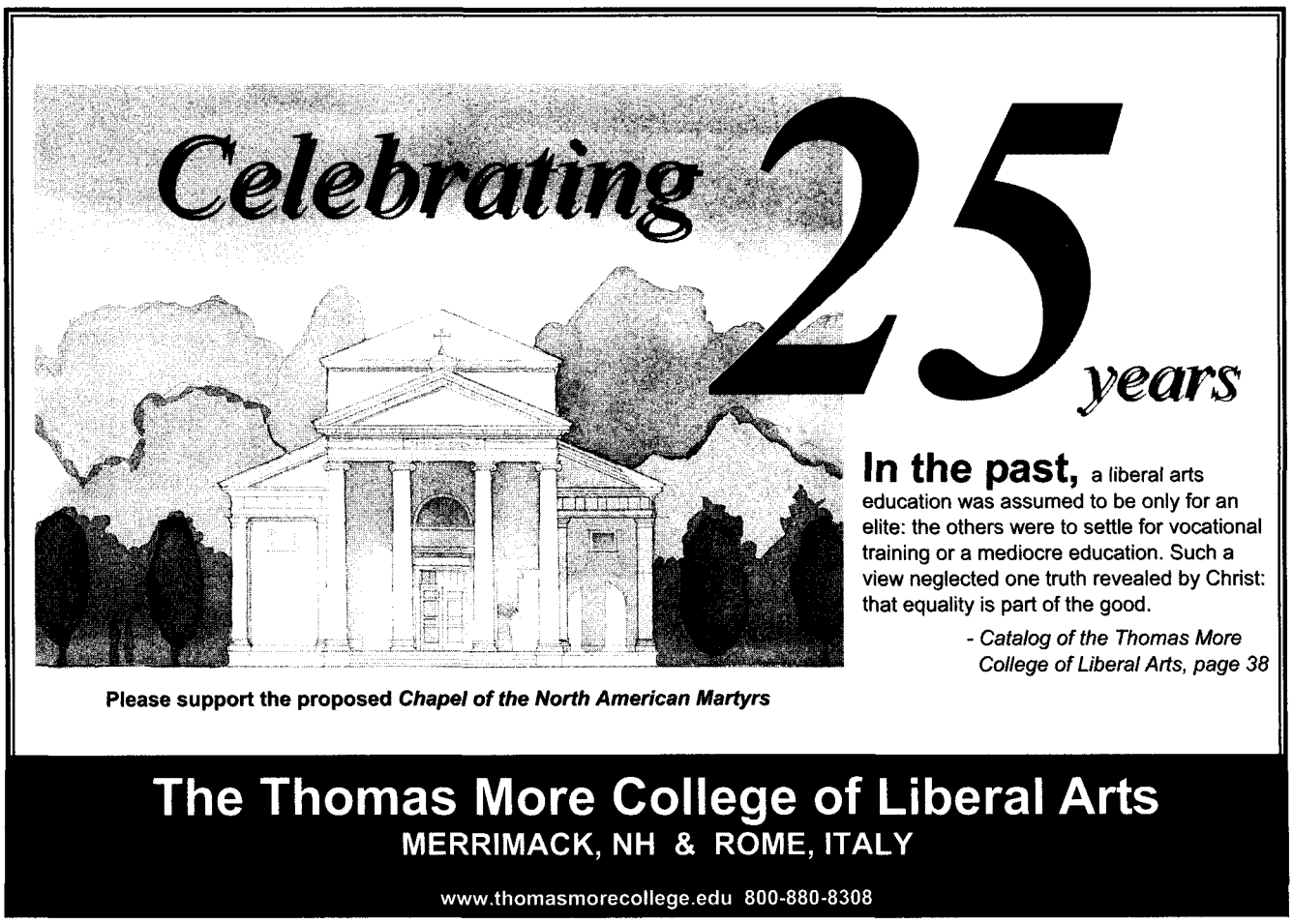
wealth of detail that forces us to qualify practically everything we had ever heard about Edwards. In writing it he has been aided by a project begun by Perry Miller at Yale in the 1950s and still continuing, a comprehensive transcription of Edwards' writings, including most of those previously unpublished (many of them scribbled on the backs of receipts and miscellaneous scraps of paper), which when complete will comprise twenty-seven volumes.

What do we know, or think we know, about Jonathan Edwards? Well, we think of him as one of the promoters of the Great Awakening, a popular outburst of religious enthusiasm in New England during the early 1740s. In fact, as Marsden's book makes abundantly clear, the Great Awakening was not confined to New England—there were similar movements in other areas, including New Jersey, which gave rise to Princeton University—and it began in earnest not in 1740 but in 1734, in Edwards' Northampton, Massachusetts. In fact, by 1740 Edwards was starting to harbor suspicions about the depth and staying power of the revival. Though he wept at the emotional preaching of the famous English evangelist George Whitefield during his visit to Northampton in 1740, almost as soon as Whitefield left Edwards "delivered a series of sermons warning his congregation against being deceived by the enthusiasm that Whitefield so facilely generated." (Whitefield, who attracted huge outdoor audiences and enjoyed rock-star adulation, never became close to Edwards. Instead, one of his best American friends was the skeptical Ben Franklin, who was fascinated by Whitefield's theatrics and vocal power.)

Yet Marsden also makes it clear that the "zealous" stereotype of Edwards has some truth in it. In a 1741 address at Yale, Edwards claimed that the new evangelicalism marked the beginning of a worldwide spiritual phenomenon that would set the stage for the Second Coming, and in the published version of the address he "was daring in his condemnations, not only of those who opposed the awakening, but even of those who did not openly support it."

Speaking of zeal, Edwards is also popularly, if vaguely, remembered for his fire-and-brimstone sermons, especially "Sinners in the Hands of an Angry God," delivered at a church in Enfield, Massachusetts, in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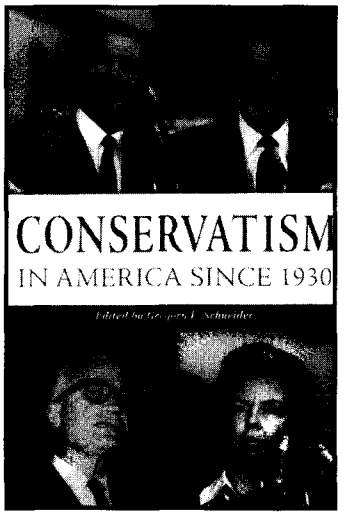
1741. Here, in part, is what Marsden calls "the infamous passage" of the sermon:

> The God that holds you over the pit of hell, much as one holds a spider, or some loathsome insect, over the fire, abhors you, and is dreadfully provoked; His wrath towards you burns like fire; He looks upon you as worthy of nothing else, but to be cast into the fire. . . ; you are ten thousand times so abominable in His eyes as the most hateful venomous serpent is in ours.

Fellow evangelist Isaac Watts called it "a most terrible sermon," in need of gospel sweetening, but then added, "I think 'tis all true." It was, Marsden reminds us, a thoroughly orthodox sermon, not unlike many other New England sermons of the time. Its effectiveness stemmed not from any consciously dramatic devices, for Edwards spoke very softly, but from its frightening precision. The image of the unredeemed sinner kept from falling into hell only by the hand of God was a perfect summary of Calvinist soteriology. Its premise, Marsden explains, was that "God does not create evil, but only permits it." Unredeemed sinners eventually damn themselves. "The weight of their sins is so great that at any moment it would drag them down to the fury of unending hatred if God released His restraining hands." The sermon also served the pastoral purpose of producing in sinners a sense of their own helplessness. "Paradoxically, only when they reached that point would their strenuous spiritual efforts be consistent with throwing themselves entirely on God's grace."

Anyway, the town of Enfield apparently needed a good scare. Unlike neighboring Suffield, which had already been awakened, Enfield still slumbered. Marsden quotes a contemporary observer who claimed that when Edwards entered the meetinghouse, the assembly "hardly conducted themselves with common decency." This quickly changed. Before Edwards had finished people were crying and moaning so loudly that he "had to ask them to be quiet so that he could be heard." He never finished the sermon that day, though its success prompted a number of repeat performances.

Among Edwards' writings, the best known is his *Treatise on Religious Affections*, a defense of the Awakening against its critics,



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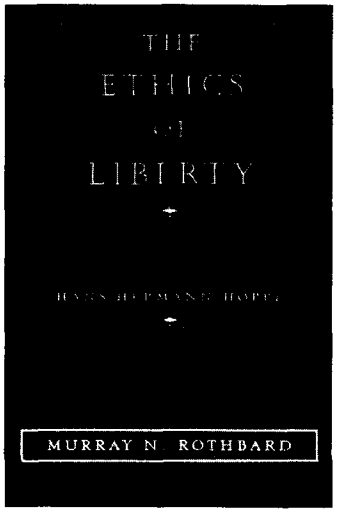

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notably Charles Chauncy, the Boston minister who decried its emotionalism. Edwards forthrightly defended the role of the "holy affections" in religion, noting that Scripture itself places great emphasis on emotions such as joy and sorrow. Yet, Marsden notes, Edwards' "first concern remained with those who already shared his own premises of the centrality of religious affections." By this time (1746) the Awakening had largely played itself out, and Edwards blamed its demise in part on the excesses of the radical New Lights, who made it all into an orgy of subjective experience. What finally counted, Edwards insisted, was not the subjective but the objective. Yes, religion consists of "holy affections," but the expressions of affection that truly matter are those which he called "practical exercises"—what they do, not simply what they feel. He concluded the treatise with the hope that "it would become fashionable for men to shew their Christianity, more by an amiable distinguished behavior, than by an abundant and excessive declaring their experiences."

If Edwards was reminding his fellow revivalists that a tree must be known by its fruit, does that mean he was anticipating a more politically active Christianity? In a controversial 1966 book, Harvard literature professor Alan Heimert argued that Edwards, who died eighteen years before the Declaration of Independence, was advancing a populist religious agenda that would soon cross the line into political populism, setting the stage for the American Revolution. Though Heimert's thesis was harshly criticized at the time, over the past quarter century it has enjoyed something of a revival at the hands of religious historians such as Mark Noll and Harry S. Stout.

Marsden weighs into the controversy, and concludes on an ambiguous note: Edwards was at once "an authoritarian conservative and a revolutionary." He believes that the implications of Edwards' "affective" theology were clearly egalitarian, quoting Edwards' contention that "persons of mean capacities and advantages" can find spiritual light "as well as those that are of the greatest parts and learning." Edwards also advanced a millennial view of history: "He projected a great worldwide revolution based on the combination of awakenings and Reformed theology." More generally, Edwards' whole project of welcoming and promoting the Awakening represented a

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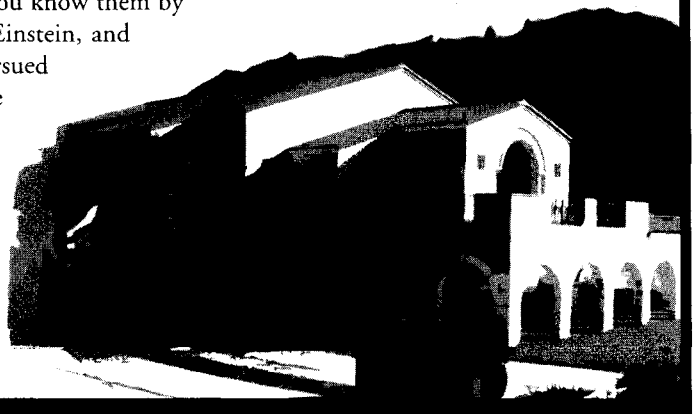

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challenge to the "standing order" of New England—not only its churches but its social hierarchy and patterns of deference to authority.

AND YET, as Marsden notes at a number of places in his book, Edwards' own social and political views were distinctly conservative. In the contentions between the "court" and "country" parties in Massachusetts, he sided with the former, delivering sermons on the evils of "envy" and deploring the "unsettled" state of affairs in society. He kept slaves and defended slavery (though he condemned the African slave trade), and governed his own family and congregation with "an old style of paternalism that was under increasing strain." Indeed, in the end, it was this backward-looking tendency in Edwards that eventually led to the revolt against his pastorate in Northampton.

The alienation began when Edwards discovered that a group of young, unmarried men in the congregation had gotten hold of a midwifery manual and were lasciviously sharing its contents; some of them even taunted young women with them. Today they would probably be charged with sexual harassment. Edwards, whose Puritanism was of an earlier vintage, organized a committee to inquire into behavior "unbecoming a Christian" and tried to extract public confessions from the ringleaders. During the hearing the accused were openly defiant, one of them declaring, "I don't care a turd" for any of the members of the committee. The episode of the "young folks' Bible," as one of the culprits jocularly called the midwifery book, left a bad aftertaste; many church members, particularly the young, thought that Edwards had overreacted. But what finally led to his undoing in Northampton was not his insensitivity to changing social mores but his attempt to turn back the clock on a long-settled policy of church membership.

The question of how to define a "church" was a long-running issue in Massachusetts. The Church of England defined it territorially: everyone in the nation was a church member except for those officially excommunicated. The Puritans, however, insisted on a "gathered" church: only those who were "visible saints" could be admitted. In the early years of the Puritan settlement in America, that meant people who were not only orthodox in belief and free from scandal but able to affirm that they had undergone a "conversion experience." This was not very

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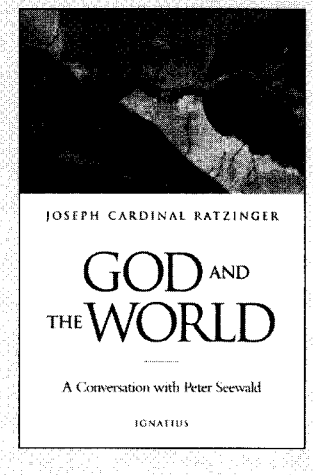

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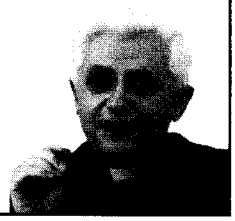

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difficult for the first generation of Puritans, whose religious zeal had been tested by persecution in England. But what of their children, those born in America? Many could not testify to such a soul-wrenching experience, so they were barred from church membership.

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But plummeting church enrollments eventually forced a compromise, known as the "Halfway Covenant": the unconverted sons and daughters of church members were allowed to have their children baptized, but they could not be admitted to the Lord's Supper until they could testify to a conversion experience. By the end of the seventeenth century the Halfway Cove-nant had became standard throughout most of Massachusetts. Then Solomon Stoddard, Edwards' famous grandfather, who preceded him as pastor of the Northampton congregation, took the final step of admitting to full church membership everyone who was orthodox in faith and free from open scandal, in effect reconstituting a "national" church in the region.

Edwards had accepted this arrangement after becoming Northampton's pastor following Stoddard's death in 1729, but with increasing pangs of conscience. In 1748 he tried to abolish it, going back not merely to the Halfway Covenant but all the way back to the total exclusion of the unconverted, the practice begun in the 1630s. Already unhappy with Edwards from his management of the "young folks' Bible" incident and other matters, the community exploded in wrath and expelled him from the pastorate. Edwards moved to the frontier town of Stockbridge, tried with much frustration and little success to minister to the Indians, and was rescued by an offer to become president of a new, revival-inspired college in New Jersey called Princeton. In March of 1758, slightly more than a month after his installation as president, he died of a smallpox inoculation gone bad.

"IT SEEMS I AM BORN to be a man of strife," Edwards once lamented to his wife. Marsden attributes this at once to his virtues and his failings: a firm adherence to principle, a complete lack of political skills, a naïve belief that if people would just read his arguments they would agree with him. In other words, Jonathan Edwards was an intellectual. As the tensions with his Northampton congregation deepened, Marsden writes, "he suggested a number of times that he might not be suited for anything but writing." And indeed it is those writings—on the human imagination and will, on the meaning of human freedom and divine sovereignty—that have long survived the disaster of his career and continue to engage us, when his "reasonable" opponents are interesting only historically. Marsden provides competent summaries of the arguments in some of Edwards' major works, particularly *Freedom of the Will* and *A Treatise Concerning Religious Affections*, whetting the appetite for deeper study.

If, as Marsden claims, Edwards' thought, particularly his theology, sometimes reached "breathtaking" heights in explaining how a sovereign God allows autonomy to rational creatures, one would like to see more analysis and evaluation of his arguments. But it would be ungrateful to demand them in this volume. What Marsden has done, by painstaking attention to his writings in the context of his life and times, is to give us the prolegomena to any future intellectual biography of Jonathan Edwards. No one, after reading Marsden's book, can be satisfied with any easy generalizations about Edwards. By the sheer weight of facts Marsden forces us to regard Edwards as "simultaneously a strict conservative and an innovator," as a man of the eighteenth century who nevertheless saw many of its blind spots, and as an evangelical who publicized the Awakening, even tried to institutionalize it, yet feared its consequences. By showing the complexity of the man and correcting many of the misunderstandings about him, Marsden has prepared the way for serious conversation with him.

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Roots of Jihad

The Crisis of Islam: Holy War and Unholy Terror. By Bernard Lewis. *Modern Library. 170 pp. $19.95.*

Reviewed by Robert Louis Wilken

Among the papers left by Mehmet Ali Agca, the Turk who shot the Pope on May 13, 1981, was a letter containing this sentence: "I have decided to kill John Paul II, supreme commander of the Crusades." It is easy to dismiss this lone gunman's fanatical obsession with what appears to us ancient history, but in the Middle East historical memory is as tangible as its chewy coffee. I have sometimes thought that among the things Americans export we would do well to pass along a little of our historical amnesia.

A germ of truth is, however, embedded in Agca's imaginings. A pope, Urban II, did give impetus to the Crusades, and though the Crusader kingdom of Jerusalem came to an end eight hundred years ago, the evidence of a century of Crusader rule is visible in the commanding castles and European-style churches that still rise from the arid landscape, as well as the longstanding bonds between Middle Eastern and Western Christians, especially in Lebanon and the Holy Land. For many Arabs Christianity appears as a colonial religion brought by the Crusaders. Though Jerusalem sank into obscurity in early modern times, in the nineteenth century European interest, followed by Jewish immigration, awakened Muslim memories. The Crusades came to be seen as an early example of European imperialism, and inexplicably to Westerners, the state of Israel as a Crusader state.

Osama bin Laden, no solitary gunman, also lives (or lived) with memories. In a videotape from October 2001, only a month after the attack on the twin towers, he spoke of the "humiliation and disgrace" Islam had suffered for "more than eighty years." Few Americans caught the allusion, but bin Laden's Muslim listeners understood his reference at once. In 1918 the Ottoman Empire was defeated by the Allies and its Arabic-speaking provinces were divided, organized to suit Western interests, and given new names by Britain and France. The Turks succeeded in liberating the Turkish-speaking parts of the

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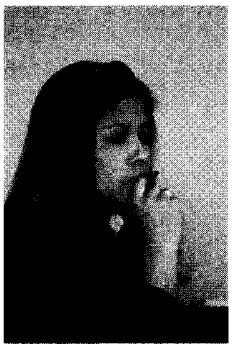

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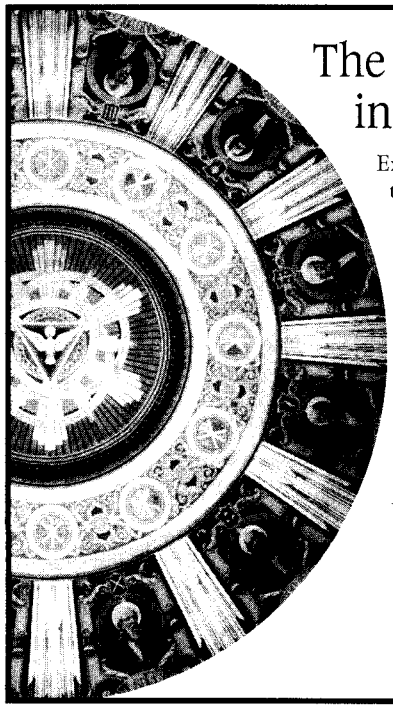

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empire, chiefly modern Turkey, and Mustafa Kemal, known to history as Ataturk, established a secular state (whose laws on religion were influenced by post-revolutionary French practice). In 1922, roughly eighty years before September 2001, he abolished the caliphate.

For Muslims the caliphate was the historic symbol of Islamic glory. Its demise not only marked the end of an institution that reached back to the very beginning of Islamic history—and with it the abandonment of the ideal of a single Muslim community bound together by political and religious authority—it also inaugurated a period of unprecedented hegemony of Western power and influence. Since then the West has been the source of major changes that have transformed the Islamic world.

IN AN EARLIER BOOK, *What Went Wrong*, published shortly after September 11, 2001, Bernard Lewis outlined the gradual triumph of Western science, technology, ways of making war, learning, and culture over Islam since the naval battle of Lepanto in 1571, when the Christian league decisively defeated the Turks. In his latest book, *The Crisis of Islam: Holy War and Holy Terror*, Lewis takes up a similar theme, but now he focuses on the twentieth century and how recent events and historical memory nurture Islamic radicalism.

The book's most interesting chapter deals with Arab knowledge of the United States. What little was known in the nineteenth century came originally through French sources. In Arabic the word for United States is *Itazuni*, a translation of the French *États Unis*. In an Arabic textbook translated from French and published in Egypt in 1833 there is a brief description of the *Itazuni* as a state composed of people whose "tribes" came from England and eventually freed themselves. "This country," continues the textbook, "is among the greatest civilized countries in America, and in it worship in all faiths and religious communities is permitted. The seat of its government is a town called Washington." As this suggests, references to the U.S., though few, were largely descriptive. Not until the Second World War did significant numbers of Americans take up residence in the Middle East and Arabs come to America as students, then businessmen, and finally as immigrants.

The change in attitudes toward the U.S. is perhaps best reflected in the thinking of Sayyid Qutub, one of the leaders of the radical Muslim Broth-

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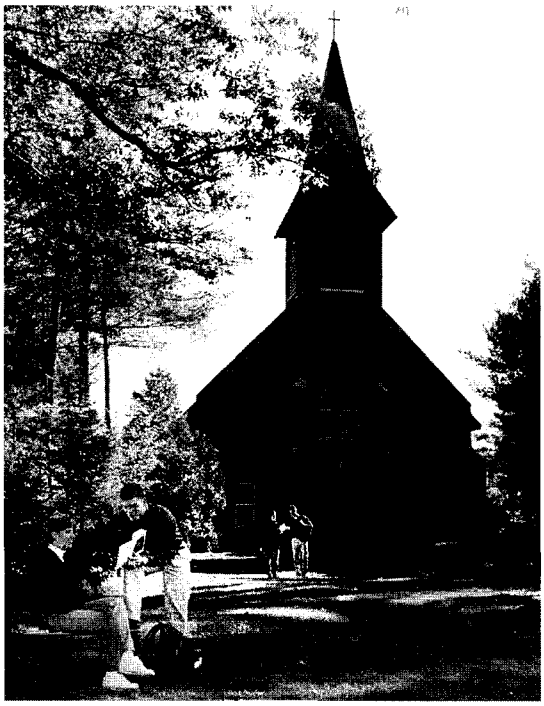

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erhood in Egypt during the mid-twentieth century. Qutub's view of America was formed during a visit to the United States in 1948-1950 on behalf of the Egyptian Ministry of Education. The time was significant. The state of Israel had just been established, the Arab states had lost the war with the Israelis, and the magnitude of the destruction of European Jewry was first becoming known in the U.S. Qutub was deeply troubled by the identification of Americans with the Jewish people and U.S. support for the state of Israel. He was also shocked by the materialism and promiscuity of American life (the Kinsey report had recently appeared), as well as the shallowness and spiritual hucksterism of the American churches. Though he was executed in 1966 on charges of planning the assassination of President Gamal Abdel-Nasser, Qutub by the time of his death had seen enough of the growing influence of the American way of life on the Middle East to consider the U.S. a threat to Islam. This perception, Lewis claims, became "a regular part of the vocabulary and ideology of Islamic fundamentalism."

As in his previous book Lewis provides data on the yawning gap between Western nations and the economies and cultures of Muslim societies. The gross domestic output of Turkey, a nation of sixty-four million people, is ranked twenty-third in the world, the highest of any Muslim country. That places it between Austria and Denmark, each of which has approximately five million citizens. The entire Arab world translates a little over three hundred books a year, one-fifth the number of Greece. Even more striking, the total number of translated books since the ninth century is approximately 100,000, the average that Spain translates in a single year. The people of the Middle East are more keenly aware today of the deep and widening gulf between the opportunities of the free world and the privation and repression of their own societies.

Then there are the consequences of national wealth being dependent on oil. Governments with vast sources of oil have no need to collect taxes or encourage representative assemblies, and can, up to a point, ignore public opinion. Hence the absence not only of political life but also of the mediating institutions that are so necessary for a healthy and stable society. The result, according to Lewis, is that religious extremism has become the most effective way to express dissatisfaction and discontent, not only against the West but also against secular Arab rulers. In the words of 'Abd al-Salam Faraj, an Egyptian executed for his role in the assassination of Anwar Sadat, "It is our duty to concentrate on our Islamic cause and that is the establishment first of all of God's law in our own country and causing the word of God to prevail."

In the view of these Muslims, the Western nations are degenerate because they are ruled not by God's laws but laws of their own invention that separate religion from politics, from social life, and even from morality, a fact that is, they claim, embarrassingly evident in the U.S. Yet it is this way of life that infiltrates the Arab societies of the Middle East. It takes little imagination to grasp why stationing American troops in Saudi Arabia, the Muslim holy land, or attacking Iraq (and hence Baghdad), the seat of the ancient caliphate,

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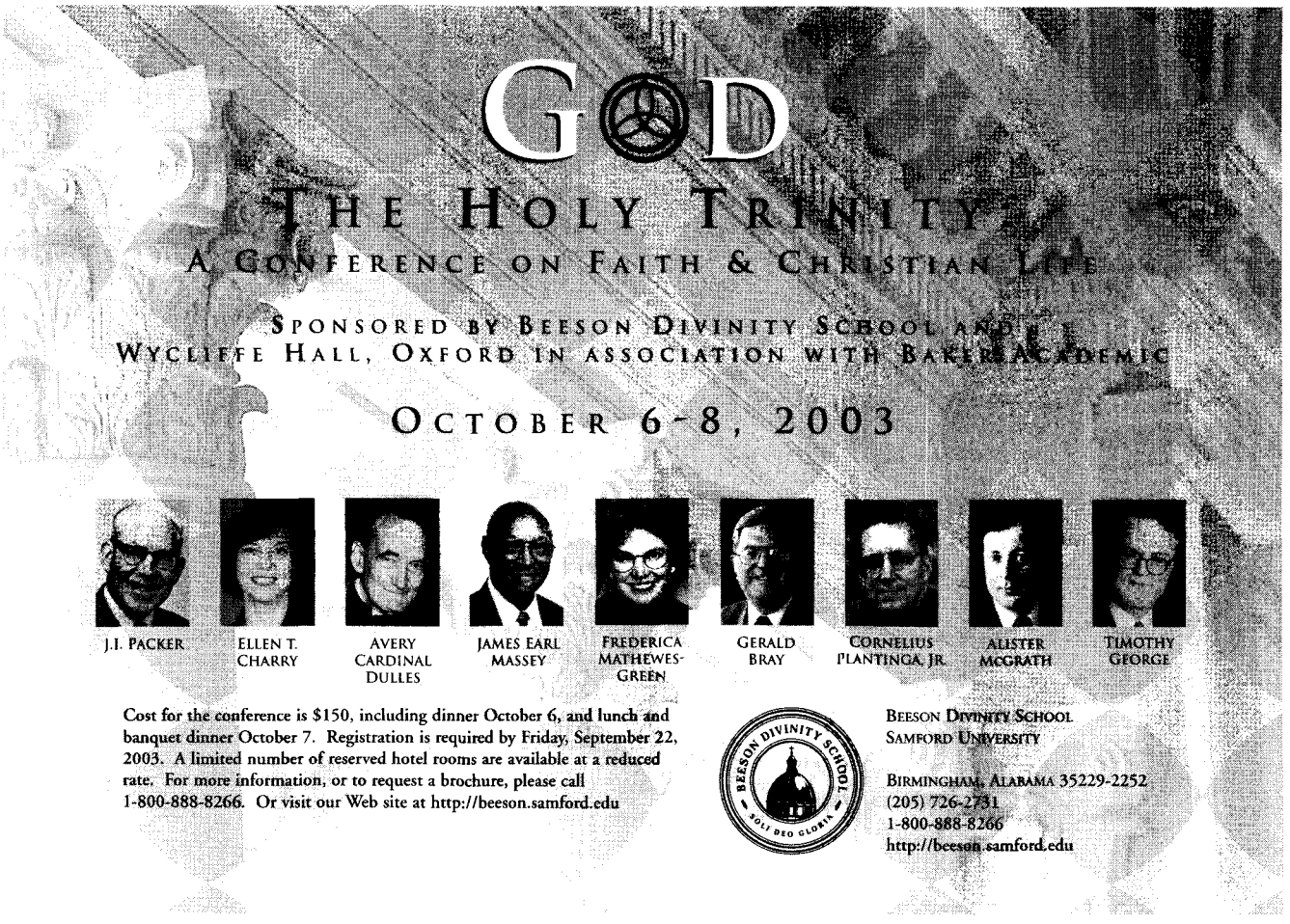
is an affront to Muslims. *The Crisis of Islam* is a useful primer to developments over the last century that still dominate the evening news week after week. For that purpose it is an informative read.

IN MANY WAYS, however, the book is misnamed. Its subject is not Islam but chiefly Islam in the Arab Middle East, Islam in its historic homeland. The "crisis" of which Lewis speaks is a crisis in the Arab world. It was there that Islam began and it was the Arabs who were the bearers of triumphant Islam for its first five hundred years. But today the Arabs are only a small part of the Islamic world. Al-Jazeera, the Arab television station, reaches an audience of forty-five million Arabic speakers, but the total number of Muslims in the world is now close to one billion. What worldwide Islam faces is not so much a crisis, but a series of challenges presented by quite different political and social environments. In Turkey Muslims face one set of issues, in Indonesia another, and in India yet another. In Nigeria, where there are large Muslim and Christian populations, Muslims cannot, for example, ask the government to provide Islamic law courts without being pressured to acknowledge an equal public status for Christianity. In the Western countries, including the United States, Muslims are struggling to reconcile their traditional belief that the Sharia embraces all of life, including politics, with the religious and cultural pluralism of the modern state.

From the beginning Islam has been a political as well as a religious community. Muslims did not have to wait three hundred years for a Constantine; Muhammad *was* their Constantine, a ruler as well as religious founder. The most pressing question for Muslims in many lands is how to order the life of the community in a society that is not governed according to Muslim law and in which Muslims must conceive of their religion, at least in part, as equivalent to a voluntary association. There is no Church in Islam, and what Muslims have historically required for authentic Muslim life extends far beyond religion.

As for the traditional Islamic countries, Lewis assumes that the future for the Islamic nations can only be a secular society along Western lines. This may seem self-evident, but as Western societies abandon traditional patterns of religious life—for example, Sunday as a holy day—and dismantle such traditional institu-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tions as marriage, one wonders whether Christians (and Jews) should join the chorus of those urging Muslims to set out on the path taken by Western Civilization since the Enlightenment.

Sweet Sistine

MICHELANGELO AND THE POPE'S CEILING. By ROSS KING. *Walker and Company. 373 pp. $28.*

Reviewed by Gregory Wolfe

ACCORDING to Giorgio Vasari, author of the monumental *Lives of the Painters, Sculptors, and Architects*, Michelangelo was so secretive about his work on the ceiling of the Sistine Chapel that Pope Julius II, the patron of the project, took to donning disguises and sneaking in at night to catch glimpses of the artist's progress. Michelangelo, ever on the alert, caught wind of these visits, and one night lay in wait atop the immense scaffolding for the arrival of the intruder. When Julius entered, Michelangelo—like Zeus with his thunderbolts—hurled planks from the scaffolding down at the Holy Father, routing him from the chapel. Grasping the full implications of what he had done, the artist fled to Florence.

Vasari's story is almost certainly apocryphal, but it captured something of the clash between these two titans—the tortured, solitary artistic genius and the overweening autocrat destined to be remembered as the "Warrior Pope." It served as the hook for Irving Stone's novel *The Agony and The Ecstasy*. And it also serves as the framework for Ross King's *Michelangelo and the Pope's Ceiling*.

That this territory has been fairly well-trodden raises the question of what King hoped to contribute to the record with this book. His previous nonfiction work, the bestselling *Brunelleschi's Dome*, had the distinct advantage of recounting a more obscure feat of Renaissance art and engineering, the building of the dome of Florence's Santa Maria del Fiori. To his credit, in the new book King goes beyond the mere contest of wills between prelate and artist to create something of a historical-cultural snapshot of the era, including the Pope's military and political campaigns, the saga of Michelangelo's ever-dysfunctional family, and the tale of the artist's chief rival, Raphael, who was painting his own epic masterpieces a short distance away, in the Stanza della Signatura. Across King's stage come a parade of Renaissance figures, from Lodovico Ariosto and Niccolo Machiavelli to Desiderius Erasmus and Martin Luther.

Colorful and vivid as King's pageant may be, his treatment of the book's raison d'etre, Michelangelo's frescos on the ceiling of the Sistine Chapel, remains oddly bland and inert. He is at his best when explaining the process of painting on wet plaster, providing thumbnail sketches of Michelangelo's team of assistants, or recounting the artist's own demand that the Pope allow him to go beyond the painting of twelve apostles to a pictorial scheme of epic proportions and complexity. King also briskly dispatches some of the hoariest myths attendant upon this story, including the idea that Michelangelo had no assistants, or that he lay flat on his back while painting. Also revealing is the consistency of Michelangelo's gruff skepticism toward nearly all the fads and

GREGORY WOLFE *is the Editor of* Image: A Journal of the Arts and Religion. *His latest book is* Intruding Upon the Timeless: Meditations on Art, Faith, and Mystery *(Square Halo).*

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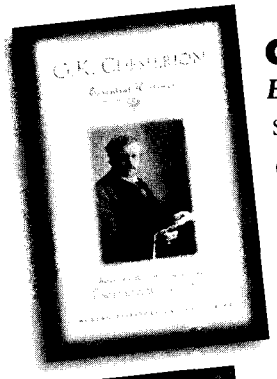

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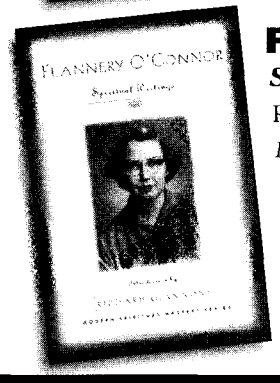

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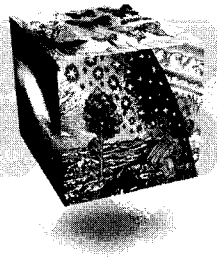

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fantasies of the period; if the Pope wanted to become an emperor, the artist remained something of a republican. But when it comes to the meaning of the great work itself, King falls back upon commonplaces and conventions.

OF COURSE, trying to write about Michelangelo's Sistine Chapel is like trying to sum up the achievement of Shakespeare's tragedies. As Romain Rolland once wrote: "It is dangerous trying to describe this work. Analyses and commentaries proliferate; they have killed the work by tearing it into pieces." Yet the peculiar frustration I felt in King's approach was caused by its utter lack of interest in the ways Michelangelo's straining, monumental human figures incarnate the theological and psychic mysteries of faith. It is one thing to say that the artist was given a theological program by one of the pontiff's chief advisors, but it is another to fail to grapple with the way in which Michelangelo gave flesh to the Word.

As critics such as Frederick Hartt have shown, the depictions of the life of Moses and of Christ on the walls of the Sistine Chapel depict Law and Grace, respectively. For the ceiling, scenes from Genesis demonstrate that Law and Grace were the unfolding of a divine plan—a plan grounded in the mystery of the lamb slain from the foundation of the world. Though Christ is not depicted in any of the primary panels, his presence is ubiquitous, particularly through analogies to the Cross and the Eucharist. To a modern viewer, the fresco immediately above the entrance to the chapel seems almost laughable: the Drunkenness of Noah. But to the Renaissance mind, still steeped in the medieval love of the Old Testament as typological prefiguration of the New, this scene is reminiscent of the Last Supper and Crucifixion. Noah planted the grape vine and became drunk on its wine; Christ hallowed the fruit of the vine

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by pouring out his blood, uniting it with wine in the sacrament. As Noah sinfully "dies" to the world in his stupor, so Christ too dies, but with redemptive effect.

King's discussion of the Drunkenness of Noah begins by noting an oddity: in Michelangelo's version of the story, Noah's sons, who in the Genesis account were scandalized by their father's nakedness, are also depicted as naked. This leads King into an extended digression on Michelangelo's use of nudity, including the evidence that the artist had studied dissected corpses in great detail.

Yet even King's exploration of the topic of nudity in Michelangelo's art seems one-dimensional. He rightly delves into the rapidly developing Renaissance interest in anatomy and medicine, and points out the rediscovery of classical sculpture amid the ruins of Rome. (Michelangelo actually witnessed the unearthing of the magnificent Laocoön, whose heroic, writhing figures both reinforced and further influenced his own penchant for expressive form.) But it is typical of King's narrow focus that he never connects Michelangelo's bold use of nudity to Neoplatonic theories of beauty and the emergence of Renaissance humanism with its emphasis on the dignity of man.

Of the three painters who are generally considered the apex of the High Renaissance—Leonardo, Raphael, and Michelangelo—it is, in fact, the last who is the most philosophical of artists. To be sure, he was not a scholar and had no Latin, but he had been sent to the Garden of San Marco as a young man, an academy staffed by some of the leading humanists of the time, including Marcilio Ficino, Politian, and Pico della Mirandola. The young artist wholeheartedly embraced the humanist vision of classical culture as a vast storehouse of wisdom and a *praeparatio evangelium*—a preparation for the gospel.

At the same time, Michelangelo was rapt by the hellfire preaching of the Dominican friar Girolamo Savonarola, who had famously created the "bonfire of the vanities" to shame Florence into repenting of its materialistic ways. An intensely pious man, Michelangelo would pore over collections of Savonarola's sermons decades after the preacher had been burned for proclaiming himself an oracle of the Holy Spirit. Late in his life, the artist even crafted an elaborate retraction,

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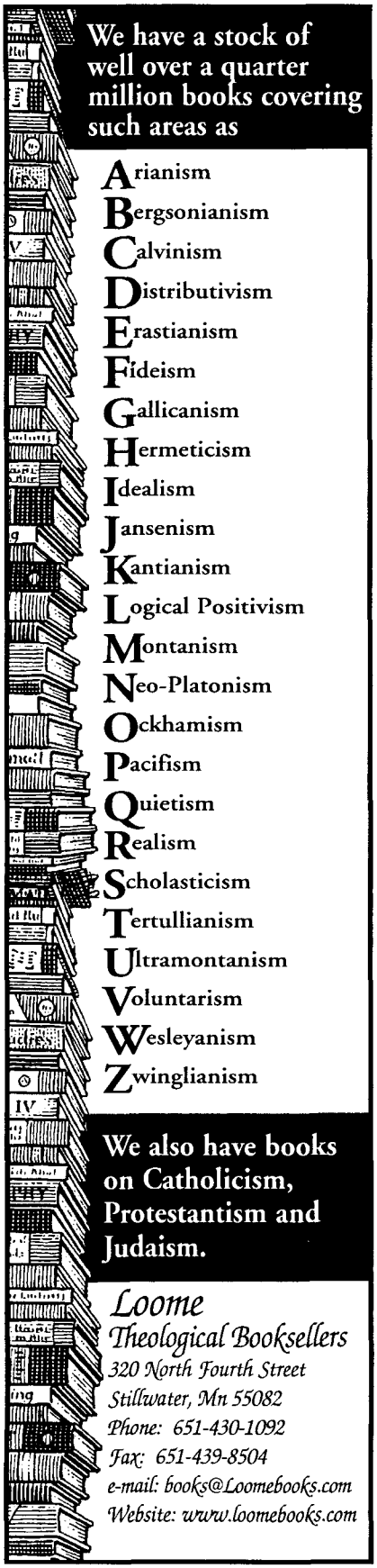

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lamenting the worldliness of his artistic career.

Michelangelo's inner dialectic, the tension between humanism and moralism, has traditionally been portrayed in Freudian terms, as a war between passion and repression. But a more comprehensive view would see this tension as a quintessentially Christian paradox—an example of "both/and," rather than "either/or." Human dignity and fallenness come together in glorious human figures whose bodies twist and writhe with desire. For the wisest humanists of the Renaissance era, the ultimate vision of human destiny might be called "tragic Christianity." Here Michelangelo must be paired with Erasmus and Shakespeare.

With this paradox in view, it is possible to understand the complex polyphony of the Sistine Chapel ceiling. The dignity of man, so evident in Adam's just-created body and the superb series of classical nudes linking the central paintings (known as the ignudi), is played against the often bedraggled and burdened human figures depicted in the family groups of the ancestors of Christ. Looking on are the prophets and sibyls, the mysterious seers of man's tragedy. And in the scenes from Genesis, the creation, fall, and redemption become one in buried allusions to Cross and Eucharist. Here, at the place where the polyphony resolves itself in plangent harmony, one can glimpse the heart of Michelangelo's legendary *terribilitá*—the terrible beauty that is his hallmark.

Ross King, alas, isn't interested in this sort of thing. That being said, it is only fair to acknowledge that he does recount the tangled lives of Michelangelo and Julius II in such a way that the narrative provides an experiential "objective correlative" to the drama played out on the Sistine ceiling. The drama makes one more deeply aware of how, like the prophets and sibyls he portrayed with such monumental

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presence, Michelangelo was a lonely, isolated figure.

In the end this book has the annoying habit of making you want to put it down in medias res and look elsewhere for answers. This is true even for the illustrations. For some reason the publisher has chosen to use up several of the book's precious color plates with full-length portraits of its principal characters, so that not one of the ceiling's central paintings is reproduced. Ross King's book leaves one wanting more, but perhaps not quite in the way he intended.

Briefly Noted

Darwin and Design: Does Evolution Have a Purpose? By Michael Ruse. *Harvard University Press. 371 pp. $29.95.*

With a palpable twinge of defensiveness, the French biologist Lucien Cuénot once boldly asserted, "It is not foolhardy to believe that the eye is made for seeing." No kidding. So why the defensive tone? Such is the subject of Michael Ruse's latest book, a history of teleological arguments in biological thought from the ancient Greeks to today's Intelligent Design movement. Although the earlier chapters on Plato, Aristotle, Augustine, and Kant are too sketchy, even potted, the book picks up with the nineteenth century, where ironies abound. Thomas Huxley ("Darwin's bulldog") saw Darwinism as the perfect opportunity to set up a secular religion to rival Christianity. But he nonetheless believed in "saltations," big leaps in evolution to account for the transition from, say, fox to dog, and even claimed that "there is a wider Teleology, that is not touched by the doctrine of Evolution." On the other side of the coin (and ocean), the Harvard botanist Asa Gray rightly recognized that saltations would mean the demise of the theory of natural selection and vigorously defended Darwin in the New World but always remained an orthodox Congregationalist, whereas his great rival at Harvard, the zoologist Louis Agassiz, attacked the *Origin of Species* root and branch but abandoned the Calvinist religion of his Swiss homeland and became a Unitarian. One chapter title might serve the whole book: "Darwinian Against Darwinian." But why the confusion in the evolutionary camp? Although his book is more history than analysis and at times shares in the confusions of his protagonists, Ruse does make a remark in passing that, in my

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Almost all of these converts came to the Church at an advanced age. The question is why did it take them so long?

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opinion, will prove to be the future key to resolving the issue: "We may no longer be thinking of a literal designer up there in the sky, but the mode of understanding persists." But is this teleological mode of understanding metaphorical (as Ruse would insist), or is it not actually analogical? Ruse freely admits that there is a major difference between metaphor and analogy—similarity is involved in both, but analogies are rooted in literal truth, while metaphors shock by highlighting *disconcerting* similarities (ones "that apprehend more than cool reason ever comprehends," to borrow Shakespeare's defense of nonliteral metaphor). Here is where Ruse's too-rapid treatment of Aristotle undoes him, for Aristotle had the distinction down just right. Toward the end of his life the great Thomist Etienne Gilson wrote a radiantly lucid book called *From Aristotle to Darwin and Back Again: A Journey in Final Causality, Species, and Evolution*. What Ruse has done, perhaps unawares, is to write a book that proves Gilson right: only when the contentious and confused Darwinians abandon their rank philosophical amateurism and clear up their conceptual confusions with Aristotle's clarity will this persistent (and persistently misleading) issue of teleology be resolved in biological thought.

—Edward T. Oakes, S.J.

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THE HOLY REICH: NAZI CONCEPTIONS OF CHRISTIANITY, 1919–1945. By RICHARD STEIGMANN-GALL. *Cambridge University Press. 300 pp. $35.*

Recent years have brought forth several efforts to examine the attitude of Christian leaders in Germany toward the Nazis as they came to power in Germany. Equally interesting, but much more difficult to uncover, is the attitude of the Nazi leaders towards Christianity. As Richard Steigmann-Gall makes clear in *The Holy Reich: Nazi Conceptions of Christianity, 1919–1945*, the difficulty comes from the fact that there was not a unified "Nazi view" of Christianity. Some Nazis were pagans, others considered themselves to be Christians, and many shifted their views over time. As for the official position of the regime, Steigmann-Gall finds no evidence of a Nazi plan to rid Germany of all forms of Christianity. Rather, the plan was to eliminate Catholicism and to reshape Protestantism. Indeed, many National Socialists actually considered themselves to be good Christians. They were able to do so because they rejected the traditions and lines of authority within

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the existing Protestant and Catholic churches. Thus freed from hierarchy and tradition, they were able to interpret Scripture according to their own views. Bolstered by some extremely harsh writings by their German hero Martin Luther, the Nazis reformulated biblical teachings to serve their racial doctrine. They elected a hand-picked Reich bishop to unify Protestant Churches into a single new confession of "German Christians" whom they then hoped to exploit. This plan for "positive Christianity" failed, however, because too many conservative Protestant ministers rejected the core values of Nazism. By 1937, it became clear that the Nazis would not be able to construct a single German, Protestant Church, and relations soured. Hitler's position in all this is somewhat ambiguous. His few clear anti-Christian statements relate to specifically Catholic doctrine, not to Christianity more generally. One is left with the impression that Hitler fully rejected the teachings of the Catholic faith into which he had been baptized as a child, but that he never truly rejected his own warped view of Protestant Christianity. An extremely valuable contribution.

—Ronald J. Rychlak

Prolegomena to Charity. By Jean-Luc Marion. *Fordham University Press. 178 pp. $20 paper.*

In an age that assumes it has moved beyond theology, some have re-proposed the theological possibility by concentrating on faith (Bultmann and Barth) or on hope (Bloch and Moltmann). Marion argues for the neglected potential of the third "theological virtue," love. His phenomenological inquiry, both relentless and illuminating, is not always easy reading. There are excurses on the nuances of philosophical jargon and what sometimes appear to be strained reaches for linguistic novelty. But Marion is also learnedly at home in the Christian tradition and offers fresh interpretations of scriptural and patristic sources that make this book, as well as his other writings, very much worth the effort. Faith and hope, he contends, necessarily await final validation, while love is always immediately possible. Moreover, love is a way of knowing that provides anticipatory validation of faith and hope. For theologians, Marion is a seminal thinker who must be taken seriously; for all Christians who cannot separate thinking from believing, he is a guide whose company in intellectual and spiritual adventure well rewards the difficulties.

Gentleman Revolutionary: Gouverneur Morris — The Rake Who Wrote the Constitution. By Richard Brookhiser. *Free Press. 251 pp. $26.*

Richard Brookhiser has a good thing going; good for us and, we may hope, good for him. There were the books on George Washington, Alexander Hamilton, and the Adams dynasty, and now he takes on the very congenial Morris. Although not as well known as Brookhiser's earlier subjects (hardly anybody today visits his grave in the Bronx) Morris was a man of many achievements, not least being the drafting of the Constitution. He was a rake but he settled down to be a gentleman, and even a Christian gentleman of the nonassertive Episcopalian type. Eminently readable (as Brookhiser always is), this book should enhance and enlarge our appreciation of the remarkable men who were the Founders.

Worship of the Heart: Essays on Jewish Prayer. By Joseph B. Soloveitchik. *KTAV. 197 pp. $25.*

Rabbi Soloveitchik (1903-1992), known to his admirers as "the Rav," was one of the most influential talmudists and Jewish thinkers of the past century. His student Shalom Carmy of Yeshiva University here brings together ten of the Rav's reflections on the nature and practice of prayer. Christians and others who are prepared to be drawn into a rich and close reading of traditional Jewish texts will be rewarded both intellectually and spiritually.

That Old-Time Religion in Modern America: Evangelical Protestantism in the Twentieth Century. By D. G. Hart. *Ivan R. Dee. 246 pp. $24.95.*

Another narrative of how early-twentieth-century "fundamentalism" became the publicly potent evangelicalism that is today both celebrated and excoriated. A weakness of the book is that evangelicalism today is much more various than Hart allows. The book does provide useful material on the fundamentalist origins of important aspects of contemporary evangelicalism.

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Richard John Neuhaus

GETTING ALONG AT THE ALTAR

In the course of a "self-interview" in his book *Signposts in a Strange Land*, Walker Percy discussed his becoming a Catholic Christian. What attracted him, he said, was "Christianity's rather insolent claim to be true, with the implication that the other religions are more or less false." In our time when "truth" is commonly put in ironic quotes, there is something bracingly contrarian in such a statement. Contrarianism can easily morph into crankiness, however, as witness Christians obsessively disputing and dividing over their supposedly singular grasp of the fine points of truth. The line between faithful insolence and egregious arrogance is not always clear. But the truth is that truth obliges, and sometimes truth divides. That is among the truths underscored in John Paul II's fourteenth encyclical, *Ecclesia de Eucharistia* (The Church of the Eucharist), issued on Thursday of Holy Week last.

"Can't we all just get along?" The plaintive question of Rodney King during the 1991 Los Angeles race riots elicited a warm response from millions of Americans. Throughout the fractious history of Christian differences, many have asked the same question, and nowhere is it asked so insistently as at the point of intercommunion in the Eucharist. Many Christian communities, weary of the differences that divide, have answered that there is no reason at all why we can't all just get along at the altar. I was impressed a while ago by a sign in a college chapel at Oxford that said all Christians were invited to share in Holy Communion—as well as those of other religions and no religion who wish to participate in, if I remember the wording correctly, this "symbolic act of the unity of humankind." One recalls the response of Flannery O'Connor to Mary McCarthy at that New York dinner party: "If it's just a symbol, to hell with it." O'Connor reports the incident in a letter to a friend. Usually unmentioned is what she immediately adds: "That was all the defense I was capable of, but I realize now that this is all I will ever be able to say about it, outside of a story, except that it is the center of existence for me; all the rest of life is expendable." That is pretty much what John Paul is saying in *Ecclesia de Eucharistia*.

Ecclesia de Eucharistia is about many things other than intercommunion. It is, in part, a movingly personal statement of the Pope's experience of the Eucharist as "the source and summit" (Vatican II) of the Christian life and of his own life as a priest. It is, as is to be expected in an encyclical, a reprise of Catholic teaching on the Eucharist, drawing richly on scriptural, patristic, and conciliar sources. I was struck by the way it highlights the chief themes of the Eucharist as set forth in the 1930 classic by the Lutheran theologian and archbishop of Uppsala, Yngve Brilioth, *Eucharistic Faith and Practice, Evangelical and Catholic*, and then further developed by Father Louis Bouyer and others in writings that informed the great movement for liturgical renewal prior to the Second Vatican Council: the Eucharist is commemoration, thanksgiving, communion, sacrifice, and the mystery of Christ's abiding presence on the pilgrim way to eschatological fulfillment. Each of these themes is lift-

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ed up, and some are freshly explored and expanded in *Ecclesia de Eucharistia*. The encyclical is at its heart ecclesiological. That is to say, it is about the Church as the Church is formed by the Eucharist. The title is telling: not the Church *and* the Eucharist, but the Church *of* the Eucharist. This is the ecclesiological context for the asking of the question, Why can't we all just get along at the altar?

The subject has an autobiographical dimension. I was reared and ordained a pastor in the Lutheran Church—Missouri Synod (LCMS). That body practiced and, at least officially, still practices "closed communion," or, as some prefer, "close communion." Only members of the LCMS or of bodies formally in "pulpit and altar fellowship" with the LCMS were admitted to Holy Communion. Formal fellowship, in turn, was based on "complete doctrinal agreement" with the LCMS. Since propinquity is a common source of tensions, most particular attention was paid to avoiding intercommunion with other Lutherans who professed a seductive approximation of doctrinal agreement. (The stricter Wisconsin Synod did not countenance even prayer at the dinner table with other Lutherans.) A good thing about the LCMS at its best is that it cared about doctrine. To paraphrase Walker Percy, it made the rather insolent claim to be true, with the implication that the other Lutheranisms, never mind non-Lutheran communions, are more or less false.

Of course, the logic of closed communion had ecclesiological implications. When the logic was robustly believed and practiced in the LCMS, a clear distinction was made between the visible and the invisible Church. Only God knows who belongs to the invisible Church. It was allowed that, by a "felicitous inconsistency," even Roman Catholics might belong to the invisible Church and thus be saved. Things are more transparent when it comes to the visible Church. It was taught that the LCMS, along with bodies in complete doctrinal agreement with the LCMS, was "the true visible Church on earth." Needless to say, the proposition that God established the true visible Church on earth in St. Louis, Missouri, in 1847 struck other Christians as somewhat counterintuitive. To be fair, some in the LCMS held a more nuanced version of the teaching, and the magisterial authority of Francis Pieper's *Christian Dogmatics* is not what it was during the first half of the last century. But the LCMS was right in seeing that the question of communion and intercommunion necessarily entails a doctrine of the Church.

That is the argument made also by *Ecclesia de Eucharistia*. A great difference is that the LCMS defined the reality of the Church entirely by doctrine. *Sola doctrina*, so to speak. The true Church is constituted, in effect, by a school of theology and those who adhere to it. The Catholic understanding, by way of sharpest contrast, is that the Church is the People of God through time, identified and sustained by apostolic doctrine and ministry, by the holiness of saints and those called to be saints, and by the faithful doing of the sacramental things—above all the Eucharist—that Jesus commanded his disciples to do. The question of intercommunion as it is addressed by *Ecclesia de Eucharistia* is, then, the question of ecclesiology: whether the Catholic Church is what she claims to be.

She claims to be the Church of Jesus Christ most fully and rightly ordered through time. Or, to use the language of Vatican II, the Church of Jesus Christ uniquely "subsists" in the Catholic Church. She does not claim to be the Church exhaustively or without remainder. Other Christians are, by virtue of baptism and faith, in "real but imperfect communion" with the Catholic Church. As, conversely, Catholics are in real but imperfect communion with other Christians. The Council readily acknowledges that the signs of saving and sanctifying grace, including outstanding marks of holiness, are sometimes more evident among those outside than within the boundaries of the Catholic Church. Why, then, can't we all just get along at the altar?

No Place for Duplicity

Ecclesia de Eucharistia fills in the necessary background to the statement of the U.S. conference of bishops that is to be found in the Mass guides or bulletins of Catholic parishes:

> We welcome our fellow Christians to this celebration of the Eucharist as our brothers and sisters. We pray that our common baptism and the action of the Holy Spirit in this Eucharist will draw us closer to one another and begin to dispel the sad divisions which separate us. We pray these will lessen and finally disappear, in keeping with Christ's prayer for us "that they may all be one."
>
> Because Catholics believe that the celebration of the Eucharist is a sign of the reality of the oneness of faith, life, and worship, members of those churches with whom we are not yet fully united are ordinarily not admitted to Holy Communion. Eucharistic sharing in exceptional circumstances by other Christians requires permission according to the directives of the diocesan bishop and the provisions of canon law. Members of the Orthodox Churches, the

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> Assyrian Church of the East, and the Polish National Catholic Church are urged to respect the discipline of their own Churches. According to Roman Catholic discipline, the Code of Canon Law does not object to the reception of Communion by Christians of these Churches.

Ecclesia de Eucharistia underscores that this is not just an institutional rule that defies the high value our culture places on "inclusiveness." The Pope writes: "The Eucharist, as the supreme sacramental manifestation of communion in the Church, demands to be celebrated in a context where the outward bonds of communion are intact. . . . Christ is the truth, and he bears witness to the truth (cf. John 14:6; 18:37); *the sacrament of his body and blood does not permit duplicity*" (emphasis added). The encyclical says that the Church understands "an ecclesiology of communion [to be] the central and fundamental idea of the documents of the Second Vatican Council." Intercommunion without a shared ecclesiology of communion is the enemy of authentic unity. John Paul puts it this way:

> Precisely because the Church's unity, which the Eucharist brings about through the Lord's sacrifice and by communion in his body and blood, absolutely requires full communion in the bonds of the profession of faith, the sacraments, and ecclesiastical governance, it is not possible to celebrate together the same eucharistic liturgy until those bonds are fully reestablished. Any such concelebration would not be a valid means and might well prove instead to be an obstacle to the attainment of full communion by weakening the sense of how far we remain from this goal and by introducing or exacerbating ambiguities with regard to one or another truth of the faith. *The path toward full unity can only be undertaken in truth.* In this area, the prohibitions of church law leave no room for uncertainty. (Emphasis added.)

The encyclical quotes a 1993 document of the Congregation for the Doctrine of the Faith, "On Some Aspects of the Church Understood as Communion": "Every Eucharist is celebrated in union not only with the proper bishop, but also with the pope, with the episcopal order, with all the clergy, and with the entire people. Every valid celebration of the Eucharist expresses this universal communion with Peter and with the whole Church, or objectively calls for it, as in the case of the Christian churches separated from Rome." The objective call for such universal communion is evident in the "churches" of the East, as distinct from the "ecclesial communities" resulting from divisions in the West. As I have written elsewhere, the only thing that is lacking for full communion between the Orthodox East and the Catholic West is full communion. That reconciliation between East and West—so that, as John Paul has often said, "the Church can again breathe with both lungs"—has not been achieved is undoubtedly the greatest single disappointment of this pontificate.

Apostolicity

In the Nicene Creed, Christians profess the Church to be "one, holy, catholic, and apostolic." *Ecclesia de Eucharistia* stresses in particular the importance of apostolicity. It is to the apostles that Jesus entrusted the Eucharist, and "it is in continuity with the practice of the apostles, in obedience to the Lord's command, that the Church has celebrated the Eucharist down the centuries." Apostolic practice is joined to apostolic faith. "With the help of the Spirit dwelling in her, the Church keeps and hands on the teaching, the 'good deposit,' the salutary words she has heard from the apostles." "Here too," says John Paul, "the Eucharist is apostolic, for it is celebrated in conformity with the faith of the apostles. At various times in the 2,000 year history of the people of the new covenant, the Church's Magisterium has more precisely defined her teaching on the Eucharist . . . precisely in order to safeguard the apostolic faith with regard to this sublime mystery. This faith remains unchanged, and it is essential for the Church that it remain unchanged."

Then there is the question of apostolic ministry. The encyclical cites the *Catechism of the Catholic Church*'s assertion that the Church "continues to be taught, sanctified, and guided by the apostles until Christ's return through their successors in pastoral office: the college of bishops, assisted by priests, in union with the successor to Peter, the Church's supreme pastor." John Paul adds, "Succession to the apostles in the pastoral mission necessarily entails the sacrament of holy orders, that is, the uninterrupted sequence from the very beginning of valid episcopal ordinations. This succession is essential for the Church to exist in a proper and full sense." Needless to say, not all Christians agree with this understanding of apostolic fidelity. But despite the divisions at the altar that it necessarily entails, the Catholic Church is bound by it. The conviction is that a unity purchased at the price of evasion or duplicity cannot be a unity pleasing to God.

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The above-mentioned distinction between the visible and invisible Church also comes into play. The Pope writes:

> The celebration of the Eucharist cannot be the starting point for communion; it presupposes that communion already exists, a communion which it seeks to consolidate and bring to perfection. The sacrament is an expression of this bond of communion both in its invisible dimension, which in Christ and through the working of the Holy Spirit unites us to the Father and among ourselves, and in its visible dimension, which entails communion in the teaching of the apostles, in the sacraments, and in the Church's hierarchical order. The profound relationship between the invisible and the visible elements of ecclesial communion is constitutive of the Church as the sacrament of salvation. Only in this context can there be a legitimate celebration of the Eucharist and true participation in it. Consequently, it is an intrinsic requirement of the Eucharist that it should be celebrated in communion and specifically maintaining the various bonds of that communion intact.

The Uncompromisable Goal

The Church's commitment to full Christian unity is, as this pope has repeatedly said, irrevocable. Catholics must be in dialogue with Christians who do not share the Catholic understanding of apostolic fidelity, they should develop cooperative relationships in work and witness, and they can engage in common prayer and worship. But they cannot receive communion at other altars lest they "condone an ambiguity about the nature of the Eucharist and consequently fail in their duty to bear clear witness to the truth." Such intercommunion is sometimes seen as a mark of ecumenical progress, but, in fact, the practice "would result in slowing the progress being made toward full visible unity." On the other hand, common services of prayer, worship, and Bible study may "prepare for the goal of full communion, including eucharistic communion, but they cannot replace it." The uncompromisable goal of ecumenism, in the Catholic understanding, is full communion.

But what about the statement that non-Catholics are "ordinarily" not admitted to Holy Communion? The answer is that exceptions to the rule are indeed extraordinary and made for compelling pastoral reasons. John Paul writes, "In this case, the intention is to meet a grave spiritual need for the eternal salvation of an individual believer, not to bring about an intercommunion which remains impossible until the visible bonds of ecclesial communion are fully reestablished." He then repeats what he wrote in the encyclical *Ut Unum Sint* (That They May be One): "It is a source of joy to note that Catholic ministers are able in certain particular cases to administer the sacraments of the Eucharist, Penance, and Anointing of the Sick to Christians who are not in full communion with the Catholic Church but who greatly desire to receive these sacraments, freely request them, and manifest the faith which the Catholic Church professes with regard to these sacraments." Catholics, on the other hand, "may not receive communion in those communities which lack a valid sacrament of orders." Those churches in communion with Peter and the Orthodox are held to have a valid sacrament of orders.

"The ecclesial communion of the eucharistic assembly," the encyclical states, "is a communion with its own bishop and with the Roman pontiff." St Ignatius of Antioch is cited: "That Eucharist which is celebrated under the bishop, or under one to whom the bishop has given this charge, may be considered certain." And Vatican II: "The Roman pontiff, as the successor of Peter, is the perpetual and visible source and foundation of the unity of the bishops and of the multitude of the faithful." From the beginning, the Church understood that fellowship at the eucharistic table defined the boundaries of those who are and those who are not in full communion with one another and with Christ. St. Paul writes, "Let a man examine himself, and so eat of the bread and drink of the cup" (1 Corinthians 11:28). John Paul quotes a homily of St. John Chrysostom: "I too raise my voice, I beseech, beg, and implore that no one draw near to this sacred table with a sullied and corrupt conscience. Such an act, in fact, can never be called 'communion,' not even were we to touch the Lord's body a thousand times over, but 'condemnation,' 'torment,' and 'increase of punishment.'" St. Augustine is called to witness: "Christ the Lord hallowed at his table the mystery of our peace and unity. Whoever receives the mystery of unity without preserving the bonds of peace receives not a mystery for his benefit but evidence against himself."

For many Christians, and for not a few Catholics, this teaching on intercommunion is both incomprehensible and offensive. In ecumenical circles, our division at the altar is commonly described as tragic, and it is that. In those communities, however, where the Eucharist is not understood or practiced as "the source and summit" of Christian existence, the use of the word "tragic" is somewhat hyperbolic. When non-Catholics speak of the tragedy of our not being united in eucharistic celebration, the tragedy they

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often have in mind is the "narrow" and "rigid" position of the Catholic Church. In the Catholic understanding, however, we really cannot do what others, and we, earnestly want to do, and that really is tragic because our "real but imperfect communion" is objectively ordered to, yearns and groans for, its perfection in eucharistic communion. But the Eucharist and other sacraments do not belong to the Church, to do with them as we wish. The Eucharist belongs to Christ, is Christ, and of that mystery we are the ministers and stewards. "The sacrament of his body and blood does not permit duplicity."

The End of Ecumenism

Consider, too, that, were we now to act on our desire for a common celebration of the Eucharist, that would be the end of ecumenism, of the quest for the unity that Christ intends for his disciples. Eucharistic communion is the consummate expression of our unity in Christ. Were we to pretend that it had already been achieved, we would all be free to return to our several and separate religious communities and associations and go about business as usual. It would be not only the end of ecumenism but the end of faithfulness to the truth, as God has given us to know the truth. Is this bread and wine symbolic of Christ's spiritual presence, or is this the body and blood of the crucified and risen Lord in the fullness of his humanity and divinity? Never mind. Does Christ intend an apostolically ordered community through time with a teaching authority under the guidance of the Holy Spirit, or is belief determined by private judgment or majority vote? Never mind. For that matter, is Jesus true God and true man? Never mind. What matters is that we all call ourselves Christians, and Christians "do this in memory of him," regardless of our conflicted understandings of what, in fact, we are doing, and of what, in fact, if anything, Christ is doing in our doing of it. This way of thinking is the way of duplicity in which we succeed in deceiving only ourselves. It would signal the end of the quest for unity in truth. A sure way not to reach a destination is to pretend that you have arrived before you get there.

An evangelical reader writes about an earlier comment on the Catholic Church's commitment to unity being irrevocable. "That's exactly what worries me," he says. "The Catholic Church will never give up until all of us return to Rome." In a recent lecture in England, Walter Cardinal Kasper, head of the Pontifical Council for Christian Unity, said, "We do not advocate an ecumenism of return. Ecumenism is not a way back; it is a way ahead into the future. Ecumenism is an expression of a pilgrim Church, of the people of God, which in its journey is guided, inspired, and supported by the Spirit, which guides us in the whole truth" (John 16:13). Of course there is always a necessary return to the sources (*ressourcement*), especially the Scriptures and the fullness of the apostolic tradition. But it is precisely the sources that mandate and inform the spirituality and hard work of ecumenism, which is directed toward the future. That future may be a long way off. Christian unity, like world evangelization and much else to which we are called, must be seen against an eschatological horizon.

When the prayer of Jesus in John 17 is fulfilled, it will not be a matter of Baptists or Presbyterians becoming Roman Catholics. There will be but one Church, and it may well be that distinct traditions of theology and practice, now embodied in separated denominations, will continue, perhaps in the form that such traditions continue in ordered communities such as the Benedictines, Dominicans, and Franciscans today. But this is in the realm of speculation. In truth, nobody knows what the institutional form of visible unity among all Christians would look like. We can know that we will be united in the proclamation of the gospel, in sacramental life, in discernible continuity with apostolic ministry through time, and in communion with Peter. But even communion with Peter, perhaps the major stumbling block at present, will have different forms then. That was the bold proposal of John Paul II in the encyclical *Ut Unum Sint*, where he invites separated communities to join in exploring how the Petrine ministry might better serve as an instrument of unity. But this we know for certain: the cause of unity cannot be served by duplicity at the altar. If the Eucharist is the "source and summit" of the Church's life, it must be maintained as the place and moment of uncompromised honesty, or else all hope for unity in truth is abandoned. There is no remedy for the painful absence of full communion other than full communion in the fullness of the truth that Christ intends for his Church.

Ecclesia de Eucharistia is about much more than ecumenism. But because the Church is of the Eucharist, and all Christians are, however imperfectly and confusedly, engaged in the life of the one Church, it is very importantly about ecumenism. The encyclical urges us to recognize that overcoming our differences begins with recognizing that our differences make a difference. In our longing for the eucharistic destination of the unity that is ours, the way forward is the way of prayer, honest dialogue, patience, and disciplined restraint.

FT

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The Bishops' Problem

"It's the Bishops' Problem" is the title of Tom Bethell's column in the *American Spectator*. He's not talking about the sex-abuse scandals but what he views as episcopal silence or cowardice with respect to Catholic witness in the public square. When Senator Rick Santorum was ferociously attacked for simply stating the Catholic view—and the view of most Americans—on homosexuality, Bethell says "we did not hear from the Catholic bishops." In fact, Anthony Cardinal Bevilacqua of Philadelphia did publicly support Santorum, and he and other bishops offered to do more, but Santorum's office asked them to hold off. It would, some thought, be counterproductive to make it "a Catholic issue."

In 1984, Bethell writes, "the question arose whether John Cardinal O'Connor would dare to excommunicate the pro-abortion vice presidential candidate, Geraldine Ferraro. For a brief moment, we held our breath. But he did no such thing. Little did we know that O'Connor was a pliant figurehead who was not remotely interested in opposing New York's Democratic liberal establishment." That's a cheap shot, and inaccurate to boot. O'Connor challenged the liberal political establishment on many things—on school aid, the homosexual agenda, the freedom of the Church to run its social programs without government interference, and, again and again and again, on abortion. But it's true, there were no excommunications.

Bethell makes an important point. He tells about a pro-life journalist who recently managed to corner Senators Ted Kennedy and John Kerry. The journalist pressed them on how they square being Catholic and, at the same time, unqualifiedly pro-abortion. Kennedy said, "I take my beliefs, I take my religion, very seriously. Look, I know who I am and what I believe." Then, speaking of the bishops, he said, "It's their problem, not mine." Kerry responded to the reporter's question, "If the bishops can't do and won't say anything about that, don't come to me. You know what I'm saying?" Bethell suggestively sets the two statements side by side—"If the bishops can't or won't do anything about that, don't come to me. It's their problem, not mine"—and says the Senators are right. It is the bishops' problem, he says.

The way to deal with it, he says, is for the bishops of Kennedy, Kerry, and the many others who take the same position to call them in and say: "Look, we just can't have this. It is causing grave scandal. And your soul is in jeopardy. Either you change your mind, or you will be separated from the Church. Then maybe you will believe that we take our church affairs as seriously as you take your affairs of state." In short, church discipline and, if it comes to that, excommunication, which is simply the public statement that a person has by grave, knowing, obdurate, and public sin separated himself from the communion of the Church.

Bethell is by no means alone in being puzzled and disappointed by episcopal leadership, or non-leadership, on this score. I have been asked hundreds of times, "Why don't the bishops do something about _____?" (With Senator Kennedy, not surprisingly, most frequently mentioned.) The question is asked with a mix of poignancy and anger by the most faithful Catholics, and especially those who have sacrificed much for the pro-life cause. I'm afraid I don't have a very good answer for those who ask, although over the years I've talked with many knowledgeable people about it, including many bishops. Some bishops have taken bold initiatives, as, very recently, in the cases of Governor Gray Davis of California and Senator Tom Daschle, but they stop well short of public excommunication.

The Meaning of "Pastoral"

Most bishops are, first of all, managers. That's not the way it is supposed to be, but it is the way it is. They are burdened and distracted by many things. Anyone who wants to be a bishop these days is either a saint or manifestly disqualified for the job. The latter may not prevent him from getting it. Most bishops are averse to controversy and terrified of confrontation. They see it as their job to keep everybody on board, not to rock the boat, and so forth. This is called being "pastoral," a rich word much debased. They know that almost every nationally prominent Democratic politician who is a Catholic is also pro-choice, and the same is true of some Republicans. They recognize that it is a problem, even a public scandal. They, too, have been asked the question. In many cases, they are tired of being asked it, probably because they, too, don't have a very good answer.

Some of them say that efforts are being made behind the scenes. Speaking of one prominent politician, an archbishop tells me, "I can't tell you how often I've wrestled him to the mat on this." Apparently the politician won every time. He continues to be in the front lines of the pro-abortion cause, and to regularly receive the Eucharist. After more than thirty years, talk about what is being done behind the scenes is not very convincing. In another case, a bishop tells me that the politician claims his spiritual director assures him that his pro-abortion position is perfectly compatible with Catholic teaching. His spiritual director is a Jesuit. The bishop says nobody can expect him to take on the

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entire Society of Jesus. One might expect that, but, unfortunately, one doesn't. Yet another bishop says that he is not sure whether an egregiously offending politician is in his diocese or registered in the parish of a different diocese, and is therefore the responsibility of another bishop. I respectfully suggested the question might be clarified by a simple phone call. Yet another bishop friend is very candid in saying that we all know the answer to the question: all hell would break loose. The papers and networks would be down on the heads of the bishops, and we would witness an explosion of anti-Catholicism that would make the sex-abuse scandals of the past year look like a minor rough spot.

It is also pointed out that Rome has not demanded, or given any indication of favoring, more public action by the bishops. Politically prominent pro-abortion Catholics in Italy, France, and Germany, for instance, are not subject to public discipline. Why should America be different? So the bishops have thought about the problem—although I do not know who was thinking what when Mr. Leon Panetta, a proponent even of partial-birth abortion, was appointed to the National Review Board. The bishops have an official policy against putting prominent pro-abortion proponents in situations of trust or honor in Catholic programs and institutions, lest it cause pubic scandal. One may be forgiven for wondering how serious they are about that policy.

The Catechism of the Catholic Church is clear enough: "Certain particularly grave sins incur excommunication, the most severe penalty, which impedes the reception of the sacraments and the exercise of certain ecclesiastical acts, and for which absolution consequently cannot be granted except by the pope, the bishop of the place, or priests authorized by them. In danger of death, any priest, even if deprived of faculties for hearing confessions, can absolve from every sin and excommunication." Assuming, of course, that the sinner is penitent.

We may not need a string of highly publicized excommunications, but the Catholic people certainly deserve a more adequate explanation of what appears to be episcopal indifference to prominent Catholics who, in explicit and persistent defiance of the Church's teaching, promote and abet the "abominable crime" (Vatican II) of abortion. Canon law states, "A person who procures a completed abortion incurs excommunication *latae sententiae* [automatically] by the very commission of the offense." Why is a frightened young woman who procures an abortion excommunicate while a politician who encourages her by telling her it is her right to do so, and works to secure her liberty to do so, welcomed at the altar? Why are prominent Catholics who persistently and publicly promote what the Church calls the culture of death apparently immune from public discipline? The Catholic people have waited a very long time for convincing answers to these questions.

Until such answers are forthcoming, it would seem that Senators Kennedy and Kerry are right. "If the bishops can't or won't do anything about that, don't come to me. It's their problem, not mine." Call it taunting, or call it throwing down the gauntlet, but Kennedy and Kerry have rendered an important service by clarifying that it is up to the bishops to make their problem the problem also of Kennedy, Kerry, and a host of others who count on bishops not having the nerve to be bishops. That, at least, is how many faithful Catholics see the matter. If they're wrong, maybe the bishops, or at least some bishops, will explain why they're wrong. Publicly.

FT

WHILE WE'RE AT IT

■ It is very perceptive of you to have noticed. Yes, there are some style changes with this issue. The main text is just a bit larger and, we hope, easier to read. We aimed at a cleaner, less cluttered, cover design, and the hairlines here and there should offset the frequent massiveness of unbroken text on the page. There are a few other changes. I hope you like the new look. If not, please be patient and we'll probably do another redesign in five years or so. If you do not like it because you think that FT had already reached perfection in every respect, I can only say that that is highly improbable.

■ I remember visiting Goree Island in Senegal. It was thirty years ago, and I braced myself against the emotional impact that it evoked. Goree Island is the place where captured Africans were collected and shipped off to slavery in the New World. Your local paper reported that President Bush was there in July, but it likely did not report much of what he said there, which is a pity. Was JFK the last President whose moments of eloquence were widely celebrated and declared to be historic? School children learned them as the words of Kennedy, not of Ted Sorenson or other gifted speechwriters. We're a long way from Lincoln's scribbling the Gettysburg Address on the back of an envelope. Although, more recently, we've learned about those legal pads of Ronald Reagan, and how he wrote out some of his best lines. But we've grown more sophisticated, perhaps more jaded, about presidential speeches. Of course, with Bush there is the factor of partisan

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prejudice in the media, and the belief that he is illegitimately President. Add to that the assumption that he is dumb and inarticulate. Such biases have blocked much attention being paid the remarkable presidential rhetoric—in the noblest meaning of that term—of the last nearly three years. So Mike Gerson drafted the speech; the fact is that the President of the United States approved it, delivered it, and, for all I know, rewrote it. His words at Goree Island deserve to be called historic. He said: "For 250 years the captives endured an assault on their culture and their dignity. The spirit of Africans in America did not break. Yet the spirit of their captors was corrupted. Small men took on the powers and airs of tyrants and masters. Years of unpunished brutality and bullying and rape produced a dullness and hardness of conscience. Christian men and women became blind to the clearest commands of their faith, and added hypocrisy to injustice. A republic founded on equality for all became a prison for millions. And yet in the words of the African proverb, 'No fist is big enough to hide the sky.' All the generations of oppression under the laws of man could not crush the hope of freedom and defeat the purposes of God. In America, enslaved Africans learned the story of the Exodus from Egypt and set their own hearts on a promised land of freedom. Enslaved Africans discovered a suffering Savior and found he was more like themselves than their masters. Enslaved Africans heard the ringing promises of the Declaration of Independence—and asked the self-evident question, 'Then why not me?'" Then Bush mentioned William Wilberforce and others who early on recognized the evil of slavery and agitated against it. "These men and women, black and white, burned with a zeal for freedom, and they left behind a different and better nation. Their moral vision caused Americans to examine our hearts, to correct our Constitution, and to teach our children the dignity and equality of every person of every race. By a plan known only to Providence, the stolen sons and daughters of Africa helped to awaken the conscience of America. The very people traded into slavery helped to set America free." He concluded with this: "The evils of slavery were accepted and unchanged for centuries. Yet, eventually, the human heart would not abide them. There is a voice of conscience and hope in every man and woman that will not be silenced—what Martin Luther King called 'a certain kind of fire that no water could put out.' That flame could not be extinguished at the Birmingham jail.... It was seen in the darkness here at Goree Island, where no chain could bind the soul. This untamed fire of justice continues to burn in the affairs of man, and it lights the way before us." Powerful stuff, that. School children could learn, and no doubt are learning, a great deal that is less worthy of their attention.

■ There was a minor kerfuffle in July when champions of an open and more transparent Church convened under a cloak of secrecy in Washington for a day-long discussion of "The Church in America: The Way Forward in the Twenty-first Century." (Yes, I know a kerfuffle is minor by definition, but some are more minor than others.) The meeting was organized by Geoffrey T. Boisi, former chairman of the Boston College board of trustees and vice chairman of JPMorganChase, and was hosted by Theodore Cardinal McCarrick of Washington. Bishop Wilton Gregory and a couple of other episcopal officials of the bishops' conference were invited, as were a slew of well-known and not so well-known academics and pundits. Despite being pledged to secrecy, some participants spoke to reporters. Monika K. Hellwig, head of the Association of Catholic Colleges and Universities, who has led the fight against John Paul II's *Ex Corde Ecclesiae* effort to strengthen Catholic identity in higher education, described the participants and purpose: "These were very important people getting together and thinking about how we can shape the Church for the future. There are some things that will not move without Rome. But we can make some efforts to move Rome, and there is a whole range of other affairs that are really internal to the North American Church, and they can reshape the way things are done." Among a couple of dozen other very important people involved in exploring how to pressure Rome to adapt to the progressive ways of what was called the American Catholic Church were Peter and Margaret Steinfels of *Commonweal*, Father Thomas Reese of *America*, Fr. Bryan Hehir of Catholic Charities, and the ever affable R. Scott Appleby of Notre Dame. There is nothing remarkable about big donors from the corporate world getting a bishop to host a meeting, or about a cardinal archbishop getting other bishops to attend. More striking is the fact that not one of the academics, editors, and other consultants invited has a record of championing the leadership of John Paul II, and several are longstanding and outspoken dissidents from magisterial doctrine and opponents of what they view as this authoritarian and reactionary pontificate. If the subject is the way forward for the Church in the twenty-first century, one might expect bishops and other Catholics to be attentive to the ways in which this pope has for twenty-five years addressed that question in great detail. Through encyclicals, pastoral exhortations, and other instruments he has laid out an ambitious and comprehensive program of renewal—in Christian unity, evangelization, moral theology, solidarity with the poor, political responsibility, priestly formation, episcopal leadership, intellectual and artistic pursuits, and much else. In 1994, he issued *Tertio Mil-*

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lenio Adveniente, a challenging agenda precisely designed for a discussion of "The Way Forward in the Twenty-first Century." It is not a great surprise but it should not go unnoticed that in July 2003, reeling from the greatest scandal in the history of American Catholicism, leaders called together very important people who are indifferent or overtly hostile to the Pope's understanding of the subject under discussion, the future of the Church. Peter Steinfels has just published a book on the Catholic circumstance in America, *A People Adrift*. I'm no expert when it comes to sailing, but I'm told a boat is adrift when it fails to tack to the wind, is overloaded on one side (in this case, portside), or is untethered from its anchor. Not to worry, however. As Monika Hellwig says, the very important people of the American Catholic Church can force Rome to mend its ways. It should also be noted that reports on the meeting are incomplete since some of the staunchest proponents of an open Church of greater transparency insisted on deepest secrecy.

■ Much deserved attention has been paid the decision of Leonard Klein, pastor of Christ Lutheran Church in York, Pennsylvania, to enter the Catholic Church and prepare for the priesthood in the diocese of Wilmington, Delaware. Klein was among the more prominent "evangelical catholics" in Lutheranism and a former editor of *Lutheran Forum*. That magazine and its sister publication, *Forum Letter*, which was for many years edited by your scribe, are produced by the American Lutheran Publicity Bureau (ALPB). Pastor Russ Saltzman, the current editor of the *Letter*, reflects on whether ALPB is becoming "a nursery for ex-Lutheran Catholic priests." Of Klein he writes: "He appreciates the teaching clarity of the Catholic Magisterium—authoritative (as in genuine) teaching always possesses great appeal, I suspect, to ex-Missourians. (Though saying that probably grants Leonard too little in his decision.)" I'm not sure I get that. Missouri Synod Lutherans have this odd thing about genuine (as in authoritative) teaching, and Klein's concern on that score detracts from his decision? In any event, writes Saltzman, "Lutheran confessionalism—whether from the 'protestant' or the 'evangelical catholic' side of things—is very much a going concern. Lutheran denominationalism, both the LCMS and ELCA varieties, however, is not faring very well." The point would seem to be that Lutheran confessionalism—meaning adherence to the doctrinal documents of the sixteenth century—would be even more of a going concern if it had an ecclesial home. As for his own future, Saltzman says that the possible (probable?) ELCA decision in favor of gay ordination and blessing same-sex unions would be "anti-gospel, and I will not remain in such a denomination." He does not know where he will go, but says that Rome and Orthodoxy "hold no special appeal." Are we to assume that, since he was not raised in the Missouri Synod, he is not afflicted with that odd concern for genuine/authoritative teaching? Knowing Russ Saltzman as I do, I am sure that is not what he means. Speaking of his fellow Lutherans, he says, "There are others, many others, in the same fix." About that he is undoubtedly right. It would be as unseemly as it is unnecessary for me to observe that there is a home—which the Lutheran Reformation at its best sought to serve—for refugees from the ruins of the theological deconstruction of Lutheranism. So I will keep the observation to myself.

■ In Tarbaek, Denmark, Pastor Thorkild Grosboll is a very popular fellow, at least with some of his people and with the Danish press. "I do not believe in a physical God, in the afterlife, in the resurrection, in the Virgin Mary," he says. "I believe that Jesus was a nice guy who figured out what man wanted. He embodied what he believed was needed to upgrade the human being." Nobody should doubt that humanity could use an upgrade, but Pr. Grosboll appears to doubt even more than the Lutheran church of Denmark can put up with. His bishop is Lise-Lotte Rebel, and she tells a reporter that Grosboll is "creating doubts and confusions about the church's values." In the absence of a creed, he cannot qualify as a heretic, but he can be found guilty of not minding his manners about the church's values. The bishop explains, "A pastor is an employee of the state who has obligations, and he cannot say everything publicly just by claiming that his freedom of expression is guaranteed by the Danish constitution." By a "physical God" Pr. Grosboll could mean God incarnate in Christ, I suppose. But in a church maintained by the government for the preservation of Danish culture, he might be referring to Odin or Thor. To paraphrase Chesterton, the problem with a church that doesn't believe anything is that it will believe anything. But the bishop's position seems reasonable enough: Pastor Grosboll is being paid, and, while he is entitled to his private doubts, confusions, and adolescent platitudes, he should refrain from rattling the church's values in public.

■ In late July, a year after its first meeting, the National Review Board set up by the bishops issued a progress report. As readers know, I shared and continue to share the misgivings that many have about the board. While the media questioned whether it would be independent and impartial, others worried whether it would compromise the episcopal governance of the Church—more than it had already been compromised

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by the incompetence, and worse, of some bishops—or be used as an instrument of the draconian "one strike and you're out" policy adopted at the panicked meeting of bishops in Dallas last year. The progress report, addressed "to our fellow Catholics and others of good will," is reassuring on a number of scores. Most members of the board are taking their work very seriously, with some highly paid professionals letting it become virtually a full-time job. The scandals are about crime and sin, but the board is heavily loaded on the crime side. The director of the Office for Child and Youth Protection was a top FBI official, as was her deputy, as was the head of the organization chosen to monitor compliance with the Dallas charter, as were many of the auditors doing the diocese-by-diocese investigations. Moreover, the job of compiling a report on the "nature and scope" of the crisis has been contracted to the John Jay College of Criminal Justice, which is part of the New York university sysem. So cops are on the job everywhere, lending a measure of credibility to Governor Frank Keating's injudicious remarks, precipitating his resignation as chairman of the board, in which he compared the bishops to the Cosa Nostra. Yet board members themselves have organized extensive conversations with a wide array of pertinent parties: victims and their representatives, priest perpetrators, medical authorities, seminary leaders and recent seminarians, and even a few theologians. So it seems the sin in these sins and crimes will not be entirely overlooked, and the board might even address the infidelity that is the "root cause" many would prefer not to talk about. By December the board hopes to issue a report on which dioceses have or have not complied with the Dallas charter. Early next year there is to be a "nature and scope" report from the John Jay team, which is to provide hard data on what has been going on since 1950: how many children have been abused and by whom, the nature of the abuse, what was or was not done to stop the abusers, and so forth. That report is eagerly awaited since, until now, people have been relying on newspaper summaries feeding off their own distorted reports, or on such as the over-heated charges of the Massachusetts attorney general and runaway grand juries manipulated by politically ambitious prosecutors. Then there will be a two-phase "causes and context" study by sundry academics, and that is expected to take several years. Such an exercise in what may turn out to be academic complexifying to obscure the obvious is probably inevitable. The board is looking for $4 million to fund it. Before the last reports, analyses, and monographs are consigned to the archives, the Long Lent that began in January 2002 may be largely forgotten. It is clear that the bishops have been painfully sobered about the consequences of sex abuse, and it is becoming increasingly clear that there have been few instances of abuse in the last ten years. With the implementation of the review board's "safe environment standards," it may well be that two or five years from now the Catholic Church will be seen as the squeaky-clean institutional model for protecting minors. That is a prospect devoutly to be hoped for. Then those who have led the assault on the Church will be able to turn their attention to sex abuse in, say, the public schools—if they are not preoccupied by then with lowering the age of sexual consent and challenging the taboo against what is called intergenerational erotic expression. Whether out of the Long Lent will come that resurrection renewal of the Church in fidelity and holiness for which the Pope called in his April 23, 2002 meeting with American prelates, one can only say that, as of this writing, the evidence of it is not overwhelming. But then, the Spirit is not captive to our programs and schedules, and out of exercises in institutional damage control may yet burst a springtime of fidelity.

■ There were several earlier films on Dietrich Bonhoeffer, the Lutheran pastor and theologian who was executed on the direct orders of Hitler on April 9, 1945, only weeks before the end of the war. One anodyne rendition shown on PBS was so politically correct that it left the viewer with the impression that Bonhoeffer was a very nice man who loved African-American gospel music, opposed Hitler and anti-Semitism, and was somehow motivated by what he called, er, Christian faith. Very different is *Bonhoeffer*, a 90-minute documentary produced by Martin Doblmeier for Journey Films. Here is displayed the vibrantly radical faith of the author of *The Cost of Discipleship*, with a remarkably nuanced presentation of the theology that informed his actions, done in a way that never slows the drama. I have a few objections. Bonhoeffer was not so dismissive of the thought of Reinhold Niebuhr as the film suggests. The Bonhoeffer of the *Ethics* was not that committed to pacifism, and he was not so central to the plot on Hitler's life, although his involvement is what got him killed. These caveats aside, *Bonhoeffer* is a magnificent achievement. It has been shown in churches, and more recently in select theaters in metropolitan areas, and has been highly and deservedly praised by critics. For more information, write Journey Films at 1413 King St., Alexandria, Virginia 22314, or visit www.bonhoeffer.com.

■ "It's never too late to say you're sorry," said Dr. Richard Land, head of the Ethics and Religious Liberty Commission of the Southern Baptist Convention. This summer, thousands of "messengers" at the SBC

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meeting in Phoenix officially repudiated pro-abortion resolutions of earlier years. Foy Valentine, Land's predecessor, was a member of the Religious Coalition for Abortion Rights and supported the argument "that abortion in some instances may be the most loving act possible." In 1973, the SBC welcomed the infamous *Roe v. Wade* decision, declaring that it protected "religious freedom" against the efforts of the Catholic Church to impose its morality on the nation. This June, the convention voted to "lament and renounce statements and actions by previous conventions and previous denominational leadership that offered support to the abortion culture." In the late 1970s, the SBC and most other evangelical Protestants were turned around on the abortion question under the leadership of Francis Schaeffer, the Swiss philosopher-theologian, and C. Everett Koop, the former Surgeon General. Since then, evangelicals have been indispensable allies in the contention for the culture of life. Dr. Land is right. Short of the final judgment, it's never too late.

■ Law professor Michael A. Scaperlanda takes a close look at one overlooked arena of change in "Kulturkampf in the Backwaters: Homosexuality and Immigration Law" (*Widener Journal of Public Law*, Vol. 11, No. 3). Immigration is viewed as the "backwaters" of public policy, but changes being pressed there are viewed as the wave of the future by some partisans. As recently as twelve years ago, homosexuality was grounds for excluding immigrants. Now immigration provisions for uniting "married" couples are being applied to homosexuals and their partners. This is a change at the edges that, if entrenched, could have large ramifications elsewhere. Prof. Scaperlanda's carefully argued article will be of interest to those who are tracking the progress of what is aptly described as the gay agenda.

■ "Jews against Lieberman?" In a column by that title, Rich Lowry, a conservative pundit who is not Jewish takes note of apparently reliable reports that many Jews are reluctant to give to the presidential bid of Joseph Lieberman. He thinks this is crazy: "The question that an embattled Jewish community used to ask of any development in American public life was: 'Yes, but is it good for the Jews?' Any Jew who doubts the answer to that question when it comes to the prospect of a Lieberman presidency is living in another century, and perhaps on another planet." Well, maybe. Lowry cites a poll indicating that "more than 90 percent of people say they are willing to vote for a Jewish candidate." That is plausible, meaning that it is plausible that less than ten percent of Americans are prepared to be suspected of anti-Semitism by telling a pollster that they wouldn't vote for a Jew. Lowry even thinks that Lieberman may have an advantage because he has a "southern strategy," meaning that in the South "they care more that Lieberman is a man of faith than that he is Jewish." I believe it, but most people in those states plan to vote for Bush in any case. They can afford to say nice things about Lieberman and his religious observance since it has no bearing on their politics. Jews who ask whether a Lieberman nomination or presidency would be good for the Jews may be excessively anxious but they are not living in another century or on another planet. I may be wrong, I hope I am wrong, but I expect a lot of ugliness of the anti-Jewish kind would come to the surface. Leaving aside the 2004 election, I think it would be a very good thing to have a religiously serious Jew as President. It would further underscore the reality of what is rightly called the Judeo-Christian tradition, and that would be good both for our public life and for helping Christians better understand their spiritual connection with Judaism of both the past and present. I have gotten myself into a good deal of trouble over the years for criticizing Jewish organizations that scream "anti-Semitism!" at every real or imagined slight. One of the most welcome developments in America of the last half century has been the dramatic decline of anything that can credibly be termed anti-Semitism. But it has not disappeared, despite the fact that "90 percent of people say they are willing to vote for a Jewish candidate." Those Jews who are worried about putting to the electoral test the question of just how much anti-Jewish sentiment is out there may be wrong. I hope they are wrong. But they are not irrational. They are living in this century, on this planet, in this America.

■ Senator Joseph Lieberman is not the man for the job, and, yes, it has everything to do with being Jewish. So says Hillel Halkin, author of *Across the Sabbath River: In Search of a Lost Tribe of Israel*, and a frequent contributor to publications in Israel and this country. American and Israeli interests, he says, are usually in harmony, but there have been conflicts in the past and there will likely be in the future. Halkin writes: "When such an Israeli-American confrontation takes place, it is perfectly legitimate for Jewishly conscious American Jews to support Israel. They can do so while rejecting the charge that they are being disloyal to America because it is no more their responsibility as ordinary citizens, or even as politicians, to weigh every aspect of an American foreign policy decision regarding Israel than it is the responsibility of human rights activists, say, to weigh every aspect of an American foreign policy decision regarding China. Rather, they can say to

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themselves: 'The welfare of Israel is supremely important to me, and I will do all I can to fight for it in the understanding that what I do is but one of numerous factors that will determine the final outcome—which will be decided by the President. . . . Since it is his job to see all sides of the question, I can concentrate on promoting one side.'" When the interests of America and Israel collide, Halkin notes, President Lieberman would no doubt say, as he does now, that he will always put the interests of America first. To which Halkin responds, "No doubt he will. And be inwardly torn as the Jew and the American in him clash as they have never before clashed in his public career. Is this a fair position to put him in, even if he chooses to be in it? Is it one that American Jews or Israelis would want an American President to be in? How could they permit themselves to exert the kinds of pressure on such a President to make pro-Israeli decisions that they could exert on other Presidents? How could they defend themselves or him against the charge of dual loyalty if he listened to them? Mr. Lieberman would probably make an excellent President. It is not his fault that the Israeli-Arab conflict will occupy much of his time if he is elected. But it is a conflict that could prove to be psychologically, emotionally, and politically ravaging for him. It would be better if he spared himself that ordeal." Mr. Halkin's argument is clear and candid, and many—although not, I expect, Mr. Lieberman—will find it persuasive. It rubs against the principle that there must be no "religious test" for public office, but, at the same time, it must be admitted that the conflict envisioned by Halkin would likely be a painful ordeal not only for Lieberman but for the country. I want to think that Mr. Halkin is wrong, especially because he claims that Mr. Lieberman's candidacy would not be such a problem if he were not so serious about being a Jew. Halkin says, "It might be different if Mr. Lieberman were a marginal Jew—one of the millions of American Jews whose links with Judaism and the Jewish community are tenuous. Marginal Jews, like France's Pierre Mendes-France and Austria's Bruno Kreisky, have been the leaders of democracies less tolerant than America without their Jewishness being a major issue. But Mr. Lieberman is not a marginal Jew. He is a traditionally observant one, one with the highest possible awareness of his Jewish responsibilities."

■ It's a European thing. The distinguished French writer, Jean-François Revel, said, "If you remove anti-Americanism, nothing remains of French political thought today, either on the left or on the right." James Ceaser adds, "Revel might just as well have said the same thing about German political thought or the thought of almost any Western European country, where anti-Americanism reigns as the lingua franca of the intellectual class." A few years ago, Ceaser, an historian at the University of Virginia, insightfully addressed this question in *Reconstructing America: The Symbol of America in Modern Thought*. He revisits the question in an article in the *Public Interest* in the light of the recent explosion of anti-Americanism in connection with the Iraq war and, it seems, almost everything else. European anti-Americanism goes way back. "Some of the greatest European minds of the past two centuries have contributed to its making. The concept of America was built in such a way as to make it almost impervious to refutation by mere facts," Ceaser writes. It was charged that 1) climatic and natural conditions made the New World degenerate; 2) the founding intellectual ideas of America are absurd and delusory; 3) America is racially impure (although now the complaint is that the races are not amalgamating quickly enough); 4) the dominance of technology and obsession with work makes America soulless; 5) Americans are consumed by consumerism. These, says Ceasar, are the "five layers" of anti-Americanism over the years. Nietzsche complained about American exporting her spiritual emptiness: "The faith of the Americans is becoming the faith of the European as well." Some say America is too modern, others that it is not modern enough (Americans are *still* religious!). In 1935, Martin Heidegger wrote: "Europe lies today in a great pincer, squeezed between Russia on the one side and America on the other. From a metaphysical point of view, Russia and America are the same, with the same dreary technological frenzy and the same unrestricted organization of the average man." Of course, Heidegger thought Hitler offered a way out of the painful pincer. After the war, Heidegger tried to make amends with the left by favoring a "dialogue" with Marxism. A similar encounter with America was out of the question, he said, because Americanism was "the most dangerous form of boundlessness, because it appears in a middle-class way of life mixed with Christianity, and all this in an atmosphere that lacks completely any sense of history." After the Cold War and the reduction of Russia, all the fear and loathing could be directed toward America. Anti-Americanism is a tradition that includes many worthies. The romantic Heinrich Heine wrote: "Sometimes it comes to my mind / To sail to America / To that pigpen of Freedom / Inhabited by boors living in equality." Heine managed to resist the temptation. While today's anti-Americanism is frequently quite nasty, including strong streaks of anti-technologism, anti-Semitism, and Christophobia, Ceaser concludes by urging us not to react to anti-Americanism with anti-Europeanism, and he's right about that. Any civilized person has to

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know our debt to Europe and cherish the European culture that flourishes in America. Europe itself is dying—spiritually, culturally, demographically, politically, and, it seems, economically. Every indicator of the vibrancy of America only feeds the furious fires of ressentiment, one of the least pleasant expressions of the deadly sin of envy. At the same time, we must recognize that there is an element of truth in every anti-American stereotype. The prejudice may be, as Ceasar says, "impervious to refutation by mere facts," but there are also unattractive facts about America that help keep the prejudice alive. In saying this, I know I'm going to further upset some of our European friends. "That's the most infuriating thing about you Americans," a French intellectual recently remarked. "You always pretend to take criticism so well."

■ Prime Minister Tony Blair's address to a joint session of Congress undoubtedly deserved more attention than it received in our media. He is a master of public speaking and said things that Americans need to hear. On terrorism: "In the end, it is not our power alone that will defeat this evil. Our ultimate weapon is not our guns, but our beliefs." On world order: "There is no more dangerous theory in international politics than that we need to balance the power of America with other competitive powers, different poles around which nations gather. . . . I believe any alliance must start with America and Europe. If Europe and America are together, the others will work with us. If we split, the rest will play around, play us off, and nothing but mischief will be the result of it." On the mischief of "old Europe": "To be a serious partner, Europe must take on and defeat the anti-Americanism that sometimes passes for its political discourse. And what America must do is show that this is a partnership built on persuasion, not command." On British resolve: "We will be with you in this fight for liberty. And if our spirit is right and our courage firm, the world will be with us." But there was, I think, one deeply wrong note, and it has to do with the aforementioned "beliefs" that he says are our ultimate weapon. "We are fighting for the inalienable right of humankind—black or white, Christian or not, left [or] right . . .—to be free; free to raise a family in love and hope; free to earn a living and be rewarded by your efforts; free not to bend your knee to any man in fear; free to be you so long as being you does not impair the freedom of others." Is the "harm principle" of John Stuart Mill—the freedom to be you so long as it doesn't impair the freedom of others—really at the heart of the beliefs that bind us together? Surely truth, decency, honor, and excellence—including moral excellence—somehow come into play. The "freedom to be you" sounds an awful lot like what Justice Antonin Scalia calls the "sweet mystery of life" passage of the 1992 *Casey* decision. Not incidentally, Tony Blair is a champion of the unlimited abortion license affirmed by *Casey*. Perhaps "the freedom to be you" is all that does hold us together. If so, it is understandable that many others, including millions of Muslims, are not enamored of the Euro-American "beliefs" that Mr. Blair and others purport to be universal.

■ In the *Grutter v. Bollinger* decision upholding the use of racial preferences at the University of Michigan Law School, Sandra Day O'Connor's wondrously convoluted reasoning arrives at the hope that twenty-five years from now such preferences may not be needed and would therefore be unconstitutional, but now they are needed to achieve "diversity" and are therefore constitutional. A distinguished professor of constitutional law tells me he has stopped teaching the subject. "In fact," he says, "the subject has disappeared. The Court's reasonings, such as they are, have become a study in personal opinions and predilections. The study of constitutional law is no longer the study of law. It is the study of the psychology of the justices in the majority, and I was not trained as a psychologist." In the wake of *Grutter*, Shelby Steele, a black thinker who combines uncommon intelligence and candor, wrote: "A remarkable feature of this opinion is the way it ignores the vast array of contradictions and unintended consequences that attach to affirmative action—a few of which are its racial divisiveness, its stigmatization of blacks as inferior, its facilitation of identity politics, its encouragement of a victim-focused identity in minorities, its reverse discrimination against whites and Asians, its preference for precisely the least needy minorities, its damage to the principle of excellence, its fostering of a parasitic diversity industry, its cynical refusal to allow the best and brightest minorities to compete openly with their white and Asian counterparts, its flaunting of the Constitution's equal protection clause, and of course its utter failure to close the academic gap between whites and blacks." That nicely summarizes the things that are, I believe, so very wrong about quota systems. The frank language of "quotas" was replaced by "affirmative action" and now by "diversity," but it's all of a piece. Having spent a large part of my life living and working with blacks at the bottom of the heap, I resonate in particular to the fact that what Michigan and so many others practice is, as Steele says, "a preference for precisely the least needy minorities." Fewer than half of the blacks trapped in the New York City public school system, for instance, receive a high school diploma that they're capable of reading. They'll not be applying to elite law

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schools. Justice Clarence Thomas noted in his brilliantly scathing dissent that *Grutter* and the reasoning behind it have little to do with racial justice and helping the disadvantaged and everything to do with assuaging the guilt pangs of white liberals. Quotas are a source of endless ugliness and anger. For instance, Maureen Dowd writes of Thomas in her column in the *New York Times*: "The dissent is a clinical study of a man who has been driven barking mad by the beneficial treatment he has received. It's poignant really. It makes him crazy that people think he is where he is because of his race, but he is where he is because of his race. . . . Maybe he is disgusted with his own great historic ingratitude." Which, being translated, reads: "After all the nice things we did for him, this is how he repays us. There's just no pleasing uppity colored people." Justice Antonin Scalia joined Thomas' dissent. Dowd doesn't say he is "barking mad." But then, he had no reason to be grateful for what liberals have done for him.

■ "[N]o religious test shall ever be required as a qualification to any office or public trust under the United States" (U.S. Constitution, Article VI). Yes, but that was more than two hundred years ago. This is from the opening statement by Senator Charles Schumer, Democrat of New York, at the hearing on the nomination of William H. Pryor, Jr., Attorney General of Arkansas, to the U.S. Court of Appeals for the Eleventh Circuit: "In General Pryor's case his beliefs are so well known, so deeply held, that it is very hard to believe, very hard to believe, that they are not going to deeply influence the way he comes about saying, 'I will follow the law,' and that would be true of anybody who had very, very deeply held views." Anybody with very, very deeply held views—as in views informed by religious faith—need not apply. Schumer continues: "My guess is that most, certainly many, of the President's judicial nominees have been pro-life, but I have voted for almost all of them because I have been persuaded they are committed to upholding the rule of law, and committed to upholding *Roe v. Wade* in particular. I, for one, believe that a judge can be pro-life yet be fair, balanced, and uphold a woman's right to choose." It is all right to be pro-life, as long as one is committed to upholding *Roe v. Wade*. Pryor had made no secret of his view that *Roe v. Wade* was wrongly decided. The job of a judge is to try to accurately interpret and fairly apply the law, which is what Pryor said he would do. The Schumer Rule is that a judge may have no unfavorable view of a court decision if the court decision involved is *Roe v. Wade*. There is more. Opponents of the nomination dug up a 1997 Pryor speech at a Catholic high school in which he said, "The American experiment is not a theocracy and does not establish an official religion, but the Declaration of Independence and the Constitution are rooted in a Christian perspective on the nature of government and the nature of man. The challenge of the next millennium will be to preserve the American experiment by restoring its Christian perspective." Senator Diane Feinstein, Democrat of California, asked, "What are others to think of that statement, as to how you would maintain something that is important to this plural society, and that is an absolute separation of church and state?" The separation of church and state (a phrase not in the Constitution) presumably forbids a public official to think that the American founding is "rooted in a Christian perspective." Or, if he thinks that, he is forbidden to say so in public. Certainly he is not permitted to tell Catholic high school students that they should support a Christian perspective. Pryor responded: "I have said that this nation is founded on a Christian perspective on the nature of man, that we derive our rights from God not from government. And part of that perspective is that every individual enjoys human rights without regard to what the majority wants. Every individual enjoys human rights, like religious freedom and freedom of conscience, including the freedom not to worship. That is what I have said. That is what I believe. . . . It goes to the core of my being that I have a moral obligation that is informed by my religious faith to uphold my oath of office, to uphold the Constitution of the United States, which protects freedom of religion and freedom of religious expression." A magnificent statement, but it was not good enough for Senators Schumer and Feinstein. And it probably would not have been good enough if Pryor had said "biblical perspective" rather than "Christian perspective." Or even if he had referred to a Kantian or Lockean perspective. Senator Edward Kennedy joined in: "I think the very legitimate issue in question with your nomination is whether you have an agenda." And what does it mean to have an agenda? It means, said Kennedy, "that many of the positions which you have taken reflect not just an advocacy but a very deeply held view and a philosophy." So there is not just a religious test for public office but also a philosophical test. At least if one's convictions are held very deeply. Even if one's deep conviction, "informed by religion," is that one is morally obliged to respect others who have different convictions. I don't really think that Schumer, Feinstein, Kennedy, and their like want to rescind Article VI of the Constitution. The entire question is cast in a different light if one's convictions about the unlimited abortion license of *Roe v. Wade* coincide with theirs. That is the one question on which they keep the faith. But let the record show that, in the case of Bill Pryor, a reli-

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gious test for public office was applied and, as Senator Schumer warned, "that would be true of anybody who had very, very deeply held views." Deeply held views, that is, with which Senator Schumer disagrees. There can be no doubt that he and his colleagues would suspend their religious test for a nominee who said his fervent support for *Roe v. Wade* is "rooted in a Christian perspective."

■ Observers have watched with fascination as Walter Cardinal Kasper, the president of the Pontifical Council for Christian Unity, has seemed to pick fights with Joseph Cardinal Ratzinger, prefect of the Congregation for the Doctrine of the Faith (CDF). A while back there was a much publicized exchange in which Kasper challenged Ratzinger's claim that the universal Church has ontological priority over the local Church. I will spare you the details, but it is a question of potentially great consequence. Now Kasper seems to be pressing the envelope with his construal of the Catholic understanding of apostolic succession in ministry. The Catholic Church, as everyone knows, does not recognize the validity of Anglican orders. At a recent conference in St. Alban's, England, Kasper said: "How can we overcome this problem? As I see the problem and its possible solution, it is not a question of apostolic succession in the sense of a historical chain of laying on of hands running back through the centuries to one of the apostles—this would be a very mechanical and individualistic vision which, by the way, historically could hardly be proved and ascertained. . . . To stand in the apostolic succession is not a matter of an individual historical chain, but of collegial membership in a *collegium*, which as a whole goes back to the apostles by sharing the same apostolic faith and same apostolic mission." He did not expand upon, but did mention, a possible "reevaluation of *Apostolicae Curae* (1896) of Pope Leo XIII, [which] declared Anglican orders null and void, a decision that still stands between our churches." Critics of Kasper say that, at a time when the Anglican communion seems to be on the precipice of terminal disintegration, it makes no sense to pretend that it is still the institution that its besieged Anglo-Catholics have claimed it to be. Others respond that it is precisely when Anglicanism seems to be abandoning its marks of catholicity that Rome should be holding out hope for the recovery of Anglicanism's better self. In that view, Kasper is suggesting an incentive for Anglicanism to step back from the precipice. Whether, in fact, the judgment of *Apostolicae Curae* regarding Anglican orders is being officially reevaluated is unclear. One will not be surprised if, at some point, Cardinal Ratzinger finds himself drawn into this discussion.

■ Faye Wattleton, former president of Planned Parenthood, now heads the Center for the Advancement of Women, which conducted a national survey that produced unwelcome findings. "This is alarming news," said Wattleton. "We are losing ground on many hard-won victories for women's rights, which could ambush the status that women have achieved." The survey found that only 30 percent of women in the country say abortion should be generally available, while 17 percent say abortion should be illegal and 34 percent say it should be legal only in the very rare cases of rape, incest, or to prevent the death of the mother. Using the conventional definitions of pro-choice and pro-life positions, that is a 51-30 lead for the latter. Presented with a list of priorities for women, 92 percent named domestic violence, 90 percent said equal pay for equal work, and preserving abortion came in next to last at 41 percent. Wattleton and others contend that the low level of interest in preserving the abortion license reflects, at least in part, the confidence of women that it is not seriously threatened, and there may be something to that. But the useful talking point is that, thirty years after *Roe v. Wade*, a majority of women in America are pro-life. Asked about the findings, George Gallup said his polls "pretty much show the same thing."

■ There is a vigorous and necessary debate over the leadership role of the U.S. in world affairs. Some speak of empire, others of benign hegemony, while yet others have revived that presumably discredited idea of world policeman. Questions of long-term importance are engaged in the debate, but it is also being poisoned by wild talk about a "neoconservative conspiracy," meaning a Jewish conspiracy. Eric Alterman in the *Nation*, William Pfaff in the *International Herald Tribune*, and the egregious Michael Lind and Edward Said almost everywhere are joined by Pat Buchanan and friends in the *American Conservative* in alleging that a small cabal of Jews has taken over American foreign policy. Robert J. Lieber (from the peanut gallery: "He sounds Jewish to me") says this of the conspiracy: "Even in its less fevered forms, the neocon-conspiracy theory does not provide a coherent analysis of American foreign policy. More to the point, especially among the more extreme versions, there are conspicuous manifestations of classic anti-Semitism: claims that a small, all-powerful but little-known group or 'cabal' of Jewish masterminds is secretly manipulating policy; that they have dual loyalty to a foreign power; that this cabal combines ideological opposites (right-wingers with a Trotskyist legacy, echoing classic anti-Semitic tropes linking Jews to both international capitalism and internation-

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al communism); that our official leaders are too ignorant, weak, or naïve to grasp what is happening; that the foreign policy upon which our country is now embarked runs counter to, or is even subversive of, American national interest; and that if readers only paid close attention to what the author is saying, they would share the same sense of alarm." Lieber, who teaches government at Georgetown, counters the conspiracy theorists with several arguments. First, he says there are relatively few Jews at the very top of foreign policy decision making. If by very top one means *very* top, that is true. But there is no denying that Jewish voices are prominent in the making and public articulation of policy: Deputy Secretary of Defense Paul Wolfowitz, Richard Perle of the Defense Policy Board, Douglas J. Feith (No. 3 at Defense), Elliott Abrams with the National Security Council, et al. Then there are very prominent Jews promoting the new "Bush doctrine" in the media: William Kristol at the *Weekly Standard*, Charles Krauthammer at the *Washington Post*, and Marty Peretz at the *New Republic*. That may give the Bush doctrine a Jewish face, but only if one is looking for Jewish faces. There are also Dick Cheney, Don Rumsfeld, Colin Powell, and Condoleezza Rice. One has to overlook them and many others in order to make the conspiracy theory work. Lieber is on weaker ground when he points out that Jews in America were sharply divided on the Iraq war and the Bush doctrine more generally. Most Jews are liberals and, like most liberals, they despise George W. Bush. His better argument is this: "Cheney, Rumsfeld, Powell, and Rice are among the most experienced, tough-minded, and strong-willed foreign policy makers in at least a generation, and the conspiracy theory fails utterly to take into account their own assessments of American grand strategy in the aftermath of 9/11." As for the claim that Bush is an ignorant and inexperienced cowboy who is easily manipulated by a cabal, anyone who does not by now see in Bush—whether one agrees or disagrees with him—a remarkably determined and effective wartime leader has to be blinded by personal or ideological animus. Moreover, conspiracy theories require shadowy figures making decisions in secret. Nothing could be more open or transparent than the Bush doctrine as declared, for instance, in the January 2003 State of the Union address: "The United States of America will not permit the world's most dangerous regimes to threaten us with the world's most destructive weapons." Then there is the national security strategy document of September 2002 that lays it all out, and has been criticized in some circles for its undiplomatic candor. That document asserts, for instance, that the U.S. will never allow any other nation or group of nations to gain the means of challenging American supremacy in world affairs. That goal is eminently debatable, but it is certainly not secret. On Bush's alleged bias in favor of Israel, Lieber correctly points out that "this is nothing new." It is in line with administrations from Truman through Clinton. One can plausibly argue, as Lieber does, that the strongest support for Israel today comes not from Jews but from evangelical and fundamentalist Christians who constitute an important part of Bush's political base. Lieber's conclusion is, I believe, convincing: "Ultimately, the neocon-conspiracy theory misinterprets as a policy coup a reasoned shift in grand strategy that the Bush Administration has adopted in responding to an ominous form of external threat. Whether that strategy and its component parts prove to be as robust and effective as containment of hostile Middle Eastern states linked to terrorism remains to be seen. But to characterize it in conspiratorial terms is not only a failure to weigh policy choices on their merits, but represents a detour into the fever swamps of political demagoguery." One can almost always discover evidence of a conspiracy if one is looking for a conspiracy. To which the conspiracy theorists respond by saying that you can only find a conspiracy by looking for it, and they have a point. The more important point is that, in this case, they have not found a conspiracy. The even more important point is that, in order to pretend they have found what they have not found, they are feeding suspicions that flourish in the dark corners of classic anti-Semitism.

■ Here's another one. "Number 1. Spring 2003." It's the premier issue of the *New Atlantis*, a journal of technology and society published by the Ethics and Public Policy Center (EPPC) based in Washington, D.C. Even if I were not on the board of EPPC, I would be greatly impressed by this handsome new journal with a splendid lead article by the redoubtable Leon Kass, "Ageless Bodies, Happy Souls," and Victor Davis Hanson's thoughtful reflection on the connections between military technology and American ambivalence about war. Then there is, among other articles, Gilbert Meilaender stretching readers to think about bioethics and nothing less than "the character of human life." You may recognize that the name of the journal is the title of Francis Bacon's 1627 fable about the perils and promises of employing science and technology to "relieve the human estate." This from the editorial statement of purpose: "While this journal will direct its attention to technologies of information, exploration, warfare, industry, and entertainment, among many others, we will pay special attention to the complicated

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questions that surround biomedical science and biotechnology. Modern science and technology have always been distinctly concerned with biological life—how it works, how it fails, and how it might be improved. Perhaps more than any other area of emerging technology, advances in biotechnology will shape the character of human life in the years ahead." So lift a glass to the *New Atlantis*. And, if you want to do more than cheer, you can take advantage of the introductory subscription rate of $20 (four issues) by writing 1015 Fifteenth St., NW, Suite 900, Washington, D.C. 20005.

■ Not only in Europe, but especially in Europe, few themes are more constant in the defamation of George W. Bush and his policies than the claim that he is a religion-obsessed fanatic who believes he is called to fight wars and rule the world in the name of God. When, on March 27, the Congress overwhelmingly asked the President to declare a day of prayer and fasting, much of the European press went ballistic. The very popular Italian monk Enzo Bianchi said it was "making war in the name of God," and compared the action with Hitler and Germany's *Gott Mit Uns*. In fact, *L'espresso* pointed out, the resolution is more like Abraham Lincoln's call for a day of prayer and fasting in which he asked the nation "to humble itself before God in repentance for its national sins." The congressional resolution was for a "day for humility, prayer, and fasting . . . to seek guidance from God to achieve a greater understanding of our own failings and to learn how we can do better in our everyday activities." The real problem, according to an editorial in *Corriere della Sera* is not with America but with Europe. "Unlike Europeans, Americans, far from having expelled God from their public speech, rather hold Him to be a source of inspiration and an essential center of their social dimension. They are the first and so far unequaled protagonists of an effective and rigid separation between church and state, free from any clericalist past, beneficiaries from the beginning of the greatest freedom of expression of thought; thanks to all this, the Americans can laugh at the prudish reluctance of Europeans when dealing with a declaration (for example in a prospective constitution) that their society has something to do with the religious Judeo-Christian inheritance. Unlike us, the citizens of the United States can evoke their own faith in a transcendent first principle without thereby provoking alarm in any apostle of free thought or of 'republican' values.'" The reference to a prospective constitution is, of course, to the constitution of the European Union. In the words of the U.S. Congress, the editorial continues, "one hears both the self-questioning of the conscience and the awareness of human nature as something prone to error and evil, an insight central to Christian teaching. It is only on the basis of this premise that the sphere of power and politics dares to turn to the Divinity. It knows that it is something not only distinct from the religious sphere but is also aware of the inadequacy of politics with respect to the criteria that count in that sphere." In other words, it is America that has achieved a measure of maturity in understanding the relationship between the transcendent and the immanent, between Providence and historical purpose, and Europe that has yet to grow up.

■ The report is in on the 60,264 girls and the 63,759 boys born in New York City in 2001. It is time for our annual note on names. For girls, Ashley is number one for the tenth straight year, and Michael is at the top of the list for boys for the fourteenth straight year. A newcomer for girls is Destiny, now in ninth place, and for boys Anthony has returned to the top ten, placing seventh. What is invariably consistent over the years is that girls get the glitzy and frivolous names while boys are named more seriously, usually for biblical figures. As to the significance of this for what we are told are radically changing relations between the sexes, I continue to suspend judgment.

■ Once again, *Commonweal* dismisses as simplistic those who say that the answer to the infidelities revealed by the Catholic sex abuse scandals is fidelity. This time it comes in the form of a very long (for *Commonweal*) article by New Testament scholar Luke Timothy Johnson, "Sex, Women & the Church: The Need for Prophetic Change." Johnson describes the intact Catholicism of his childhood fifty years ago and recounts the turbulent changes, both in Church and culture, that threw everything into confusion. "By the late 1960s, while awaiting a decision that many thought could reasonably go only toward approval of birth control, American Catholics found themselves caught up in a cultural revolution with little moral guidance." It would be more accurate to say that many, supported by an orchestrated campaign of dissenting theologians, rejected the clear moral guidance that was given. "It was at this moment," writes Johnson, "that American Catholicism began to become, in effect, the largest mainline Protestant denomination in the country." There is nothing notably new in Johnson's description of what has happened, but it prompts a certain puzzlement about *Commonweal*'s persistent support for the Common Ground Initiative (CGI). CGI is supposed to nurture mutually respectfully dialogue between conservatives and liberals in order to advance the Church's teaching and life. Imagine if, at the highest levels, the Church accepted the invitation of CGI. Pro-

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fessor Johnson would like to engage the Pope in respectful dialogue about the teaching on contraception, which is, Johnson says, "really about keeping women in their place and maintaining the aura of papal authority" in order to protect the "inconsistency and corruption" in the Church's leadership. Johnson would, with due deference, like to raise a question or two about the rule of clerical celibacy, which is, he says, an instance of "suicidal self-delusion." As to the solemnly defined teaching that the Church is not authorized to ordain women and therefore cannot do it, Prof. Johnson wonders if the Holy Father might not be open to agreeing with him that the teaching is "laughable (at best) and blasphemous (at worst)." And so it goes on issue after issue. By publishing Johnson's article, *Commonweal* is clearly saying (at least) that these are views deserving of being engaged in dialogue. But how can the Church dialogue about whether she is, and has been for centuries, teaching falsehoods? Thoughtful Protestants are Protestants because they think that what the Catholic Church teaches is not true. Prof. Johnson and many others agree, but are determined to remain Catholics, which would seem to be possible if, in fact, American Catholicism is "the largest mainline Protestant denomination in the country." "Teaching is real and convincing," Johnson writes, "only to the extent that it is actually embraced by believers, embodied in their practices, coherently and consistently expressed by the community of faith." He does not allude to the possibility that, even if the Church's teaching is poorly communicated and widely rejected or ignored, it may nonetheless be true. It is not that Prof. Johnson has difficulties, as many do, in assenting to the Church's teaching. He has concluded that the teaching is false, and risibly so. He does not even credit the good intentions of the teachers. They are acting out of corrupt and self-serving motives. With such views the Church is to enter into respectful dialogue through the Common Ground Initiative? One cannot help but wonder, with all due respect, whether these people are entirely serious.

■ "What, Me Worry?" Remember Alfred E. Newman, the mascot of the parody magazine *Mad*? Sociologist Alan Wolfe, who directs a center on religion and public life at Boston College, is the Alfred E. Newman of the culture wars. A few years ago he gained attention with *One Nation After All*, the product of reports by interviewers who asked a lot of Americans how they felt about things. Wolfe concluded that most Americans, far from being passionately embroiled in the culture wars, are very nice people who spend their time at work and taking care of their families. Not to worry. A while back, he wrote an article on Catholic colleges, and, rebutting those who are concerned about Catholic schools being less than authentically Catholic, argued that they are more Catholic than non-Catholic colleges. Not to worry. Now Wolfe reviews in *Books & Culture* Philip Hamburger's important book *Separation of Church and State* (see FT review by Stephen F. Smith, December 2002). Hamburger offers a devastating critique of the ways in which Jefferson's phrase about a "wall of separation" was for decades exploited for antireligious, and specifically anti-Catholic, purposes. Not to worry, says Alan Wolfe. Strict separationism may not have been what the Founders had in mind, but, c'mon, don't we all believe in a "living Constitution" that accommodates itself to the spirit of the times? Anyway, Wolfe observes, the Supreme Court is now moving away from the extremes of strict separationism. "That kind of slow transformation," he writes, "and not Hamburger's sometimes more apocalyptic musings, is the appropriate approach to this extremely important issue." (Can musings be apocalyptic?) Never mind the decades of the exclusion of religion and religiously based argument from the public square; never mind the millions of children denied education in schools of choice; never mind secularism's triumph on such questions as abortion, school prayer, and communal symbols in public spaces. After all, the only damage has been to the free exercise of religion and representative democracy. What, Alan Wolfe worry?

■ "Mad Mel: The Gospel According to Gibson" by Paula Fredriksen is one of those intemperate outbursts to which we are all sometimes prone but which are better put in a desk drawer for cooling. Professor Fredriksen is a respected scholar, and her book *Jesus of Nazareth, King of the Jews* received respectful attention in these pages ("A Jewish Jesus" by Kristen H. Lindbeck, December 2000). For some reason, the editors of the *New Republic* describe her book as "a historical study of the last twelve hours of Jesus' life." In fact, it is a study of the entire life, but I suppose the editors wanted to puff her as an authority on the subject of Mr. Gibson's film *The Passion*. Prof. Fredriksen was part of a small group of academics who got hold of a purloined copy of the film's script and pronounced the film to be ahistorical, ignorant, inflammatory, and, above all, anti-Semitic. A committee of the Catholic bishops conference got itself involved in the trashing of the film (which none of the academics had seen) and, for the second time in a year, the conference had to publicly disown an initiative in Jewish-Christian relations perpetrated under its auspices. (The first was a statement saying that the universal commission to evangelize does not include evangelizing Jews.) In the

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New Republic attack, Fredriksen mocks Gibson's statement that he wanted the film to be "as truthful as possible." She writes that such an effort "would be frustrated by the best sources that he had to draw on, namely, the Gospels themselves." She goes on to say that the Gospel accounts are filled with contradictions, and written by people who wanted to blame the death of Jesus on the Jews. "The fact that Jesus was publicly executed by the method of crucifixion can only mean that Rome wanted him dead.... The evidence suggests that the priests must have been somehow involved. But the historical fact behind the Passion narratives—Jesus' death on a cross—points to a primarily Roman agenda." Of course, Prof. Fredriksen, like Mr. Gibson and everyone else, has nothing to go on but the Gospel accounts. Those accounts tell us that Jesus the Jew was throughout his ministry in conflict with the religious authorities of his time and place, who were Jewish as well, and that those same authorities claimed that he was also an enemy of Caesar, which led to his execution under Pontius Pilate. According to the Gospel writers and the community for which they wrote, namely, the Church, the passion is about a primarily Jewish agenda aimed against a Jew who claimed to be the messiah. The teaching of that same community is that we are all responsible for, and potentially saved by, the death of Jesus. In telling what happened with her academic committee and the unenthusiastic response of Mr. Gibson's film company to its criticisms, Prof. Fredriksen writes, "In retrospect, we also functioned with a naiveté that is peculiar to educators: the belief that, once an error is made plain, a person will prefer the truth." That is certainly my experience of academics. They are relentlessly devoted to the truth and grateful for being corrected when in error. I am at this very moment awaiting a thank you note from Prof. Fredriksen.

■ I stand corrected. It was not Canadians in general but Mr. Iain Benson in particular who came up with the acronym ROFTERS for "Readers Of First Things." Mr. Benson is a very conscientious lawyer who likes to keep the record straight. He is also a dear friend and founder of the Ottawa-based Centre for Cultural Renewal in a country that, like this one, is in desperate need of it. In any event, there continues to be great interest in forming ROFTERS discussion groups. In the Denver area, Dr. Dennis R. Floyd is prepared to take the initiative, and he can be contacted at 3265 Fenton St., Denver, Colorado 80212-7130; phone: (303) 202-6792; e-mail: DRFloyd@attbi.com. In Annapolis, Maryland, Robert Caffrey can be reached at 30 Lafayette Ave., Annapolis, Maryland 21401; e-mail: rmcaffrey@aol.com. In South Holland, Illinois, which is just south of Chicago, you can get in touch with the Rev. Michael Gilligan at 16565 South State St., South Holland, Illinois 60473; phone: (708) 331-5485; e-mail and web: acp@acpress.org and www.acpress.org. Readers who live near Staunton, Virginia, can get in touch with Chris Saxman at P.O. Box 2517, Staunton, Virginia 24402; cell phone: (540) 294-0680; fax: (540) 248-2129; e-mail: saxman@intelos.net. And M. J. Christensen has offered to organize a discussion group for readers in north-central Florida. He can be reached at 50 Wildwood Trail, Deland, Florida 32724; e-mail: MJChris@world-net.att.net.

ROFTERS groups are entirely independent and self-organized. The convener takes the initiative and from there on it is up to the group—whether to meet monthly or less often, whether to meet in a home, office, or church, whether to discuss one article or take on all the subjects addressed in that month's issue. In short, whether whatever. Please go to it, and please let me know what happens.

Sources: Bishops' problem, Tom Bethell, *American Spectator*, June/July 2003.

WHILE WE'RE AT IT: Leonard Klein, *Forum Letter*, July 2003. Danish pastor, *New York Times*, July 8, 2003. Covenant House, *New York Times*, June 20, 2003. Southern Baptist Convention on abortion, *Pro-Life Infonet*, June 20, 2003. Lowry on Lieberman, *National Review Online*, May 6, 2003. Halkin on Lieberman, *New York Sun*, June 17, 2003. European anti-Americanism, *Public Interest*, Summer 2003. Pryor hearing, transcript of hearings, U.S. Senate. Wattleton, *Life-News*, June 26, 2003. U.S. leadership and neoconservatives, *Chronicle of Higher Education*, May 2, 2003. Europe on Bush, *L'espresso*, April 14, 2003 and *Corriere della Sera*, April 6, 2003. Boys' and girls' names, *New York Times*, April 9, 2003. Luke Timothy Johnson, *Commonweal*, June 20, 2003. Alan Wolfe, *Books & Culture*, Sept./Oct. 2002.

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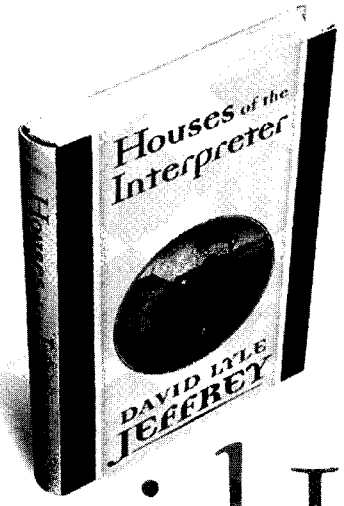

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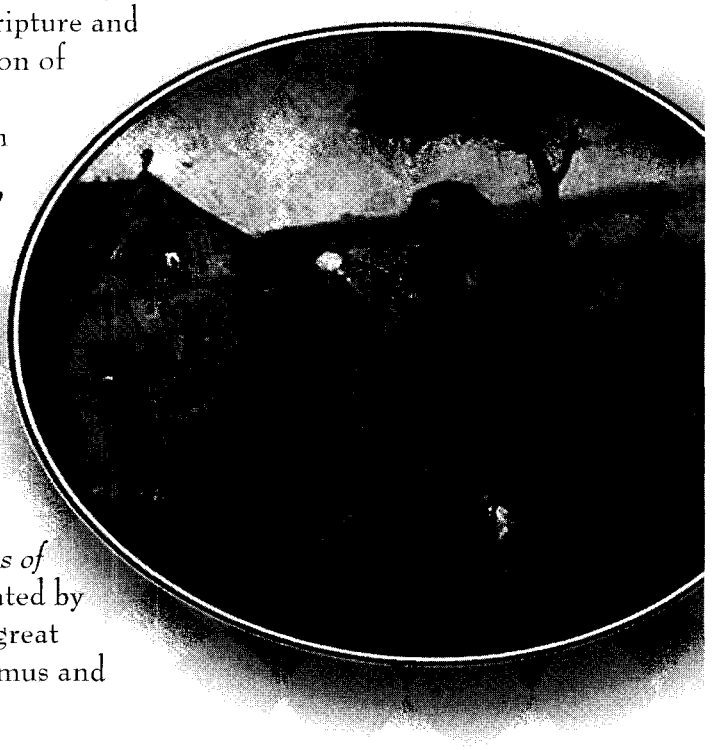

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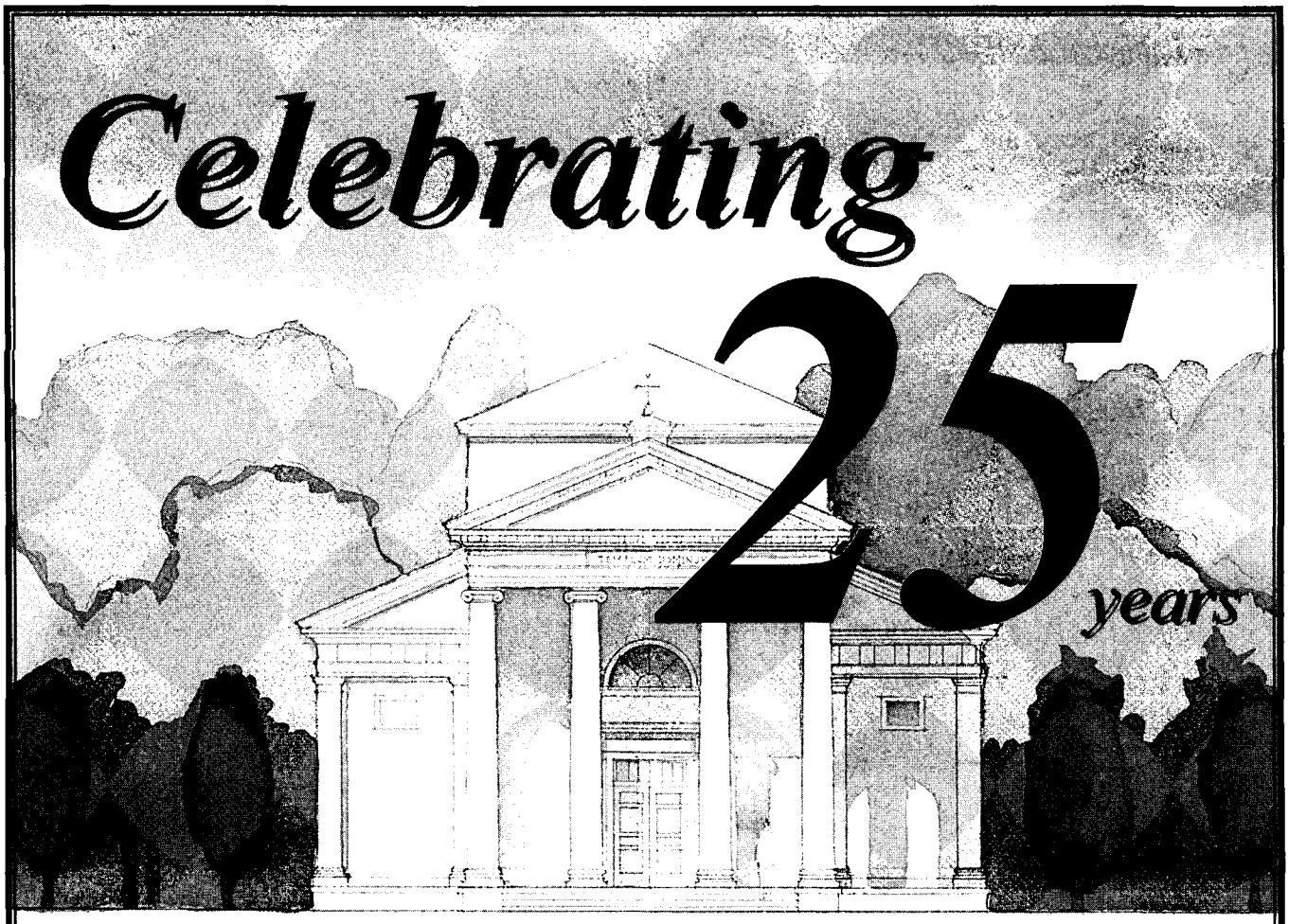

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